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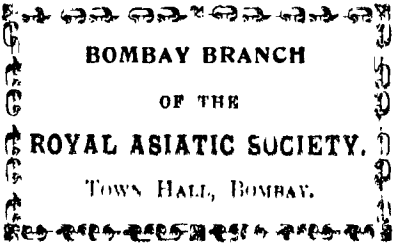

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THE MODERN STATE

IN RELATION TO

SOCIETY AND THE INDIVIDUAL

BY

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THE MODERN STATE.

BOOK I.

CHAPTER I.

The Necessity for an Exact Conception of the Modern State and of its Functions.

THE conception which prevails generally among the men of our time of the State, its nature, and the part it has to play, is singularly confusing and confused. It is credited by them with inconsistent, often contradictory attributes, so great is the lack of clearness and precision of thought on the subject. When it approaches this theme, which has so weighty a bearing on human destinies, their thought loses itself in mist and fog.

The words Liberty, Progress, Individual Initiative, Social Duty, State Action, Legal Obligation, are

jumbled together hap-hazard in the speeches of our legislators and the writings of our controversialists. Many of them seem to be afflicted with that singular disease of the memory known as aphasia, which consists in taking a word to express an idea with which it has no possible connection. When they use the word Liberty, understand Servitude: when they say Progress, understand the reverse.

It is this conception of the State and of its mission that I wish to examine anew. Many others, it is true, have attempted this of late years. In 1880 the Academy of Moral and Political Sciences took for the subject of one of its numerous prize competitions, *The Part Played by the State in the Economic Order.* The palm was given to two distinguished productions sent in by two professors in our faculties of law, M. Jourdan of Aix and M. Villey of Caen. The compass of the subject might be much more widely extended, for it embraces more than the purely economic order. The Modern State overruns all the spheres of human activity: it threatens the whole range of human personality.

More recently still, the learned body above mentioned opened a long discussion among its members on the subject of the Functions of the State. Among those who took part in it were legislators, economists, historians, moralists, philosophers.

In this discussion it seemed to me that the philosophers did not descend sufficiently to the level of this earth. With their great talent for abstraction, they ignored the genesis of many human institutions, some of them attributing to the State a number of establishments which really sprang from free initiative, such as Banks, Mutual Aid Societies, Savings Banks, Insurance Companies, Hospitals, *Monts-de-piété*, etc.

The moralists, on the other hand, seemed to me to give way to an excessive sentimentalism, which runs a risk of enervating society and even man himself.

Thus the subject has not yet been exhausted, nor has it been, to my thinking, made sufficiently clear as to its main outlines.

The most forcible expositions which have lately appeared on this vast and splendid theme, we owe to

Herbert Spencer and to Henri Taine. The former, after having in several of his works sketched with his unrivalled penetration, but still rather by way of episode, the nature and character of the State, has recently devoted a small but brilliant volume to the subject, entitled, *The Individual versus the State.* In this work the very titles of the chapters seem to shine out like guiding stars: thus, *The Slavery of the Future, The Sins of Legislators, The Great Political Superstition,* and so on. The latter, M. Taine, has contrived, by virtue of his marvellous talent for condensation, to insert in two or three pages of his *Formation de la France Contemporine,* almost by way of digression, the philosophy of the division of social functions and of the *rôle* of the State.

But Herbert Spencer and Taine have both approached this subject from above. Those who admit no other arguments than those of facts and figures may very easily fail to recognise their authority. They may be accused of ideology or of nursing prepossessions—especially the latter.

I therefore had reason to believe that it would be well to take up once more the study of the State and its mission. Most of the conclusions which I shall have to lay before my readers were formed by me prior to the publication of Mr. Spencer's last book. They were the subject-matter of my course of lectures at the College de France in 1883-84. I had formed them into a united whole; I have since entirely revised them. The experience of recent years has only served to convince me more firmly of their substantial truth, and given me fresh examples whereon to base them.

It is with the Modern State that I intend to deal, such as history has made it, and as the discoveries and applications of science have transformed it.

There are some questions which cannot remain in the domain of the absolute, and which must necessarily contain an element of what is relative and contingent. "The State in itself," like "man in himself," is an abstraction which the most subtle mind has difficulty in grasping, and which can only take

the shape of a pale shade with vague and indefinite outlines.

It is with civilised nations that I mean to deal. In some quarters I know it is the fashion to make small account of civilisation. In the early part of this century Fourier always showed an inexhaustible disdain for what he called "civilised man." The entire species was to disappear before long, according to him, to moulder in the tomb side by side with its two predecessors in the social scale, "the barbarian" and "the savage."

Nowadays, among writers who pride themselves on showing greater strictness than Fourier, there are many who, like him, make civilisation the target of their criticisms and sarcasms. Only lately, in one of the leading Reviews, a clever article on the great liberal theorist, Benjamin Constant, speaks of "that process of social disintegration which is known by the name of civilisation." These are very harsh judgments.

For our part, we hold that this very civilisation, whose merits are thus rudely estimated, has made

for the human race a softer and more convenient bed than it has ever before known since first it grew to consciousness of itself.

Outside the domain of pure fiction and Utopian or millenial visions, the imagination is not capable of picturing clearly to itself any social structure essentially different from that of to-day. Astronomers tell us that in certain planets which may be supposed to be habitable, Mars among others, extraordinary transformations take place in the course of only a few years: it seems as if the inhabitants had constructed gigantic canals, and a lively fancy might attribute to their engineers a capacity far exceeding that of our own. Such things may be possible on the planet Mars.

But in our poor little Earth we occupy a more modest position, which enjoys the advantage of having greatly improved itself in the course of a hundred, a thousand, or even two thousand years. It has taken the successive efforts of two or three hundred generations of men to procure for us our present relatively easy existence, our moral, civil, and political

liberties, the transmission and unremitting increase of literature and the arts.

There are some proud spirits who tell us that this patrimony of ours is a meagre and a despicable thing, that humanity can no longer resign itself to the task of increasing it slowly in the future by the same means which have formed it in the past. They maintain that individual initiative, which has been the source of all this progress, has had its day: that we must establish a great central organ into which everything shall be absorbed, and which shall itself direct everything; that one enormous driving-wheel, in place of the thousands of small unequal and independent systems of wheels we now have, would produce infinitely more powerful and more rapid effects: that by this means the wealth of humanity would be increased tenfold, and justice would at length reign upon the earth.

But we remain sceptical in the face of all these promises. We cannot forget the many families in which a frivolous and presumptuous son, inheriting a fortune laboriously and patiently acquired, de-

spises the modest virtues which have reared it, and rushes headlong into wild and perilous adventures with the idea of increasing it by more rapid measures. We know that a few moments of imprudence may be enough to endanger, or even to destroy, wealth which it has taken the labour and pain of years, it may be of centuries, to amass.

And we ask ourselves if the nations of our day, with the insolent disdain of free societies and personal initiative with which it is sought to inspire them, with the confused ideas which are instilled into them of the State and of its mission, are not likewise embarked on a perilous adventure. The investigation of facts as well as the analysis of ideas will enable us to form a judgment of this question.

CHAPTER II.

Recent Changes in the General Conception of the State.

THE conception of the State held by theorists of the eighteenth century and of the French Revolution: exaggerations, governmental Nihilism—Various causes which have contributed to the extension of the part played by the State: large industries, steam, parliamentary government, Pantheist philosophy—Two advocates of a moderate extension of the State's mission: Michel Chevalier and John Stuart Mill — The extreme theory of the attributes of the State: Gambetta's formula—A Belgian theorist: Emile de Laveleye—Dogmatic opinion in Germany: Lorenz von Stein, Wagner, Schäffle, Bluntschli—The "propulsive" State.

THE prevailing theory, both among thinkers and among public men, during the latter part of the last century and the early part of this, was unfavourable to the extension of the prerogatives of the State. The eighteenth century bequeathed to us several celebrated formulæ on which two or three generations have successively lived. "Do not overgovern," said d'Argenson; "*Laisser faire, laisser passer*," wrote

Gournay: "property, security, liberty, these make up the sum-total of social order" thinks Mercier de la Rivière; and the lively Abbé Galiani was still more emphatic in declaring "*Il mondo va de se*,"—the world goes of itself.

The French Revolution, in spite of its brutalities and its excesses, and the noisy and sanguinary course of action pursued by the State, did not in principle run counter to these ideas. If it was not always quite faithful to them (as in the case of the laws of the maximum), these errors in practice might be attributed to circumstances. The most absolute rights of private property, unlimited individual liberty, both civil and industrial, were included in its celebrated Rights of Man. So jealous was it for the independencies of the individual that, for fear of compromising this, it was anxious to suppress all intermediary bodies, and to render it impossible that they should ever be reconstructed. In this it was acting against its ideal: it was weakening human personality in the very attempt to strengthen it.

In Germany, at that time, the same doctrine was

generally dominant. The philosopher Kant, and the subtle politician William von Humboldt still more strongly, conceived of the individual as the chief if not the only motive power of social progress. The State was to them simply an apparatus for protection and co-ordination.

Later on, at least in western Europe, the ideas of the leading spirits were as usual exaggerated by their disciples. Some of them came to using language at once foolish and absurd: to representing the State as nothing but "a necessary evil," to adopting as a formula the new anonymous designation, "the State-ulcer." Although the doctrine of the eighteenth century was still guarded by Jean-Baptiste, Say, Dunoyer, Bastiat, the exaggerations just referred to had a mischievous effect upon it.

In some quarters men began to revolt against the policy of systematic abstention which it imposed upon the State: they took to calling it by the opprobious name of "Governmental Nihilism." But still there remained some economists—Joseph Garnier, for instance—who persisted more strongly than ever

in their distrust of the State, and denied its right to play an active part even in matters of finance.

Just about this time, however, there appeared in society certain phenomena which tended to increase the action of the State. The larger industry, with its enormous agglomerations of workmen, the lines of railway which began to spread their network over the land, were matters to which the State could not remain entirely indifferent.

There was a part for it to play in presence of these new forces. It was absolutely necessary that it should assist them, or keep an oversight on them, were it in ever so small a measure. Entire abstention was in the nature of things an impossibility. The establishment of railroads made it necessary to have recourse to expropriation for the sake of public utility. It must be admitted that there are still some opponents of this kind of expropriation, as of every other—M. de Molinari, for instance—but their opposition counts for no more than a mere eccentricity of opinion.

Vast factories were growing up in all directions.

It was impossible to allow children of seven or eight years old to work in them for twelve, thirteen, or even fourteen hours a day. Some of these great premises, too, raised difficulties which rendered new regulations necessary for the sake of public security and public health.

Thus the new force—steam—which was to develop so strongly the spirit of enterprise in man, forced the State to come out of the position of abstention which it had held for half a century towards industrial questions.

While this was going on, legislators were beginning to busy themselves with the moral and intellectual progress of manual labourers and of the less fortunate classes generally. Parliamentary government, the extension of the press, an even wider suffrage, at last towards the middle of the century the universal vote, gave loud and powerful organs to the grievances of the poor.

All who suffered the hardships of life, looking forth on the world as it is, began to consider that the powers that be, in the form of the central govern-

ment and local authorities, should be their natural protectors; next they came to regard them as their allies and collaborators, and finally as their servants and their slaves.

The Pantheist philosophy which prevailed towards the middle of this century had no less share in spreading the cult of this Great Whole which is called the State. It came to be believed in as the generating force which should fashion society according to a certain ideal.[1]

The marvels which were coming to pass in the industrial world inspired the belief, by a seductive analogy, in the possibility of a similar renovation, as far-reaching and as profound, which should be effected in the social world under the direction of the State.

Under the influence of all these different factors, some industrial, some political, some again philosophical, the conception of the State in most minds

[1] We are not surprised to find that the celebrated German philosopher, Hegel, was one of the protagonists of that conception of the State which makes it the reformer and guide of society.

began to undergo a transformation. A protest was raised against "governmental Nihilism and against anarchical economists."

Both in France and in England this movement was at first confined within reasonable limits. The names of two men are most prominently associated with it, men who did not desert economic science, but on the contrary rendered it more illustrious—Michel Chevalier and Stuart Mill—both men of an exact and penetrating order of mind, as well as generous hearts, enthusiastic and given to optimism.

Michel Chevalier advised that the State should be allowed to play a considerable part in social progress. "I have it at heart," he said, "to combat certain prejudices which had great weight a few years since, and which have still a considerable following, prejudices according to which the Government ought to confine its functions towards society, not only in the matter of public works, but also all along the line, to those of inspection and supervision; and must refrain from action, in any direction, although, as its very name signifies, it is

destined to stand at the nation's helm. . . . There is, in fact, a reaction going on in the best minds: the theories of social economy which find most favour are those in which power is no longer regarded as a natural enemy, but appears as an indefatigable and beneficent auxiliary, a sort of tutelary guide and support. People are beginning to recognise that its function is to guide society towards good and to preserve it from evil, to be the active and intelligent promoter of public improvement, without pretending to a monopoly of this glorious prerogative."[1]

The finishing clause of this last sentence comes happily as a corrective to whatever there is of excessive in the rest of this statement. When he wrote these lines Michel Chevalier was still a determined advocate of private initiative, and he had in his mind no anticipation whatever of the yoke to which it would be subjected thirty or forty years later.

It was the same with Stuart Mill. The world

[1] Michel Chevalier: *Course of Political Economy*, vol. ii. lesson 6.

has never known a more persevering or more persuasive defender of liberty. Yet he had at bottom a tendency towards Socialism which he could at times with difficulty suppress, and which occasionally carried him away. We find it again and again in many parts of his writings: but he never yields to it finally or without a struggle.

If he admits that "the action of Government[1] may be necessary where that of individuals is lacking, even though the latter may be more desirable," he hastens to recognise the importance of cultivating habits of voluntary collective action. He adds that "*laisser faire* must be the general rule."

Passing from the doctrine to its application, he

[1] We may be permitted to remark that this word "Government," as here used by Mill, dissipates a host of illusions which attend the habitual use of the word "State." The Government is a concrete being, the State an abstract one. To whatever party we belong, as citizen or as subject, we know well the imperfections, the defects, and the vices of "the Government." The State, on the contrary, we conceive of as an ideal being, which we endow with all the fairest qualities of which we dream, and from which we take away all the weaknesses we detest. We should gain much, both in precision of ideas and in certainty of applications, if we constantly replaced the term "State" by the term "Government."

writes that among the nations of the Continent it is very common both in theory and in practice to exaggerate the prerogatives of the State, while in Great Britain the opposite tendency has hitherto prevailed.

It must be remembered that these passages from John Stuart Mill date from at least thirty years ago. Since then English legislation and the English administration have shown a singular tendency to invade and obtrude themselves on a number of domains hitherto reserved to private initiative, such as manufacture, schools, hygiene, etc.

The purely doctrinal reaction led by Michel Chevalier in France, and John Stuart Mill in England, against the system of the non-intervention of the State was not attended by immediate dangers. Both writers would have been among the first to oppose those exaggerated views, which, instead of making the State an auxiliary of private enterprise would make it its enemy.

In France there were already many writers, of an unequal degree of distinction, who went much

further, and began to magnify the State at the expense of the individual: for instance, Dupont-White, Jules Duval, and Horn. The first of these especially, who had the largest hearing among the general public, professed an unspeakable contempt for private initiative. He maintained that "individuals, with their aspirations for their personal welfare, have not in them the principle of progress."

This seems to be the formula which counts the largest number of adherents to-day, both systematic and unconscious. It has invaded contemporary philosophy; it is reflected in the pages of the larger portion of the press; it lies confusedly in the background of the minds of most of our legislators; it issues in various and widely echoing forms from the lips of our popular orators.

"A Government should, above all, be a motive-power for progress, an organ of public opinion, a protector of legitimate rights, and an initiator of all the energies which constitute the genius of the nation." This is the immense task which was assigned to the State by the celebrated tribune who

launched the third Republic on the path which it has since pursued with tottering steps.[1]

New theorists are constantly cropping up who work out this presumptuous idea in infinite detail. They are, however, less numerous in France than in other countries.

In Belgium, M. Emile de Laveleye, an incisive writer, pronounces clearly, though still with certain reservations, in favour of a considerable extension of the prerogatives of the State. He is not content with saying, what no one but the Anarchist economists would deny, that the State is something more than a mere organ of protection, a guarantee of peace and order, that it is also a necessary instrument of progress. Its mission, he says, is "to make justice reign;" but in the sense of the new school, to make justice reign does not mean to secure the sanctity of contracts. It means rather to pursue the realisation of a certain ideal; it is to modify custom and convention in order to attain this particular ideal which is

[1] See Gambetta's speech at Belleville in 1878.

conceived by the State, or rather by the group of persons who for the moment represent the State.

In England, the greatest thinker, the most independent mind, the mind that sees the greatest number of things in their entirety as well as in their myriad aspects—I mean Mr. Herbert Spencer—remains more than ever opposed to State intrusion. With his characteristic boldness of utterance he writes that *the official machine is slow, stupid, wasteful, corrupt.*[1] Not content with merely affirming this, he accumulates examples to prove it. But there are already some, notably Prof. Huxley, who hold in principle to the same general framework of ideas, but who yet incline towards allowing the State to play an important part in the work of reform.[2]

It is especially in Germany that the new doctrine is spreading. There the idolatry of the State may be

[1] *Essays on Politics*, pp. 28-36.

[2] It would be unjust not to mention here the efforts of a private association called the *Liberty and Property Defence League*, for combating the State-Socialism which is gaining so much ground in England. This league has for many years past issued a number of instructive leaflets against the usurpations of Parliament in the spheres of civil or commercial life.

seen fully developed. Many causes combine to produce this effect: old historic traditions, the natural tendency of German philosophy; the desire of their economists to innovate without any great effort of imagination, and to form a national school opposed both to the English and the French schools; finally, the prestige gained for the Prussian monarchy by its triumphs, which raised it to the level of the most astonishing administrative machine that has ever existed.

The result is that German writers fall into a sort of ecstasy when they begin to treat of the State. They utter cries of admiration and adoration instead of producing arguments or stating definitions.

M. Lorenz von Stein writes: "The State is a community of men elevated into an autonomous personality and acting by itself. We recognise the State as the highest form of personality. The task of the State is, therefore, ideally illimitable and infinite."[1]

Lorenz von Stein is a Viennese. But we find that

[1] Lorenz von Stein: *Lehrbuch der Finanz Wissenschaft*, ed. ii, pp. 2, 6.

Professor Wagner of Berlin, who is stationed at closer quarters with the most brilliant manifestation of the active and powerful State, shows no less enthusiasm. The immense task of the State he divided into two parts, each of which appears to him almost without limits: the mission of justice (*Rechtzweck des Staats*) and the mission of civilisation (*Culturzweck des Staats*).

By this mission of justice we must not merely understand the service of material security, but other and much more extensive functions, manifold and various, and susceptible every day of new developments. This is what Wagner understands by what Von Stein calls the Social Idea (*die sociale Idee*), by which the Modern State must be penetrated. This social idea especially concerns the elevation of the lower classes.

Here some metaphysical distinctions supervene. We must distinguish, in this supreme personality which we call the State, the will (*der Wille*), which is the regulating force, and the action (*die Thätigkeit*).

Dr. Schäffle, the most ingenious of the German

economists, and whose writings are beginning to be most highly thought of by the whole new scientific school in Germany and Italy, and in a less measure in Spain and Portugal, especially since 1870, and who was once Minister of Commerce in the Austrian Empire, devotes four large volumes to the analysis of all the organs and all the functions of the social body, as if it were a real body in flesh and bone, and he gravely represents to us that in this social body thus minutely described, the State represents the brain.

The writers whom we have just quoted, however, are not pure theorists, philosophers, or cloudy jurisconsults: they turn their attention to practical matters, and notably to finance. Their studies on the budget and on taxation ought to have a little pruned their exuberance. What will become of those, on the other hand, who hover eternally in higher spheres and never take notice of such vile things as the equilibrium of receipts and expenditure, the difficulties of the rate-payers, the cost of proceedings, etc.? They will dogmatise and preach more and more freely in honour of that great idol the State.

"The direct and veritable aim of the State," says Bluntschli, "is to develop the faculties of the nation, to perfect its life and achievement by a progressive onward march that will not bring it into contradiction with the destinies of humanity, a duty at the same time moral and political." This passage is not luminously clear, in which point it resembles a multitude of others which might be placed side by side with it. But acts of invocation towards a superior and mysterious power, such as is the State for certain German writers, can very well endure this lack of precision.

There is, perhaps, but one man among our German neighbours who has remained firm in defence of individual liberties and private initiative, and that a man of unexampled erudition and incomparable clearness—namely Roscher, whose professorial jubilee has just been celebrated by the German universities. But he is one of those veterans who are everywhere honoured, while the lessons they teach are everywhere forgotten.

How can we wonder that Germany should have

become the classic land of Socialism when its learned men uphold and propagate with such indefatigable vigilance the creed of the State and its infinite task (*Aufgabe begrifflich unendliche*)?

Ideas give birth to facts. Everywhere in Europe, reflectingly or unreflectingly, parliaments, provincial councils, municipalities, are penetrated with the doctrine which we have just set forth. Those who hold the reins of public authority at every stage and level ought to be the chief directors and promoters of civilisation.

A French prefect, deeply imbued with philosophy, conversing with me some years ago, said to me, concerning the inhabitants of a revolutionary town in the South, "They are *propulsive.*" He pronounced this word *propulsive* with unction and with reverence.

The State, in the view both of our sages and of our crowds nowadays, ought to be *propulsive.* It does not suffice for it to be the rudder, it must now become the screw. And it is straining so to become, in its threefold manifestation, as the central power,

provincial power, and municipal authority. Our budgets, all our budgets, whether of communes, of provinces, or of departments, bear evident traces of this.

CHAPTER III.

The New Conception of the State in Relation to National and Local Budgets.

THE impulse given to the politico-administrative machine was only kept within bounds by financial exigencies—The State—Trinity: central, provincial, and municipal power—The armed peace is not the sole cause of the financial embarrassments of modern States—Enormous development of non-military services—The expenses of local authorities have increased quite as much as those of the central power, witness England—Witness also Italy, France, and the United States—The different points of view from which the extension of State prerogatives may be regarded with favour—The State still remains the sole Divinity of the modern world.

WHILE in the ordered progress of ideas a great number of writers were learning to abandon the old conception of the State as reduced to a few very simple prerogatives, all the countries of Europe, Great Britain as well as the nations of the Continent, were beginning to plunge the State into a host of tasks and services from which it had hitherto abstained.

It is especially within the last fifteen years that this impulse has been given to the politico-administrative machine. We may even say that it has received its sole check from the pressure of financial limitations.

Everywhere the ill-considered development of State prerogatives in the trinity of its forces, central, provincial, and municipal, has been quite as much as military armaments the cause of financial distress and economic collapse among the nations of Europe. Were it not for the fact that all the public services which the State undertakes require a pecuniary endowment, and that the finances of a country are not susceptible of unlimited extension, we should see most of the States on the Continent encroaching far more even than they are doing on the domain hitherto reserved to free associations.

The deficit of budgets is the sole and only curb which checks the ambitions and encroachments of the State in our day. But being more or less limited in its *action*, it takes its revenge by a more and more extended exercise of its *will*—that is to say, of its

regulating power—which, of course, costs nothing, or very nearly so.

It has become the fashion to throw the responsibility of the heavy charges and deficits of European peoples on the armed peace, and on the discoveries which are continually transforming both maritime and military equipments. To do this is to see only one of the two main causes of the evil.

If this were so, it would only be the budgets of the central authority which would be largely increased; whereas, on the contrary, local budgets, whether of provinces, departments, or communes, have increased still more outrageously, and with their prodigious inflation find themselves still more hard put to it than the national budgets. In the latter also, the department of non-military services has singularly increased.

The result of certain statistics based on official documents goes to show that in England the expenses of the Civil Service amounted in 1817 only to £1,721,000 sterling, while they rose gradually to £2,507,000 in 1837, to £7,227,000 in 1857, to

£8,491,000 in 1867, to £13,333,000 in 1877, and finally, in round numbers, to £16,000,000 in 1880; thus the expenses of the Civil Service have increased sixfold between 1817 and 1880, while since 1867 only, they have almost doubled.

I have been unable to pursue the comparison further than 1880, owing to a change in the method of English statistics, but certain indications lead me to believe that from '80 to '88 an additional increase of at least 10% has taken place.

Local budgets bear still more unmistakable signs of the inevitable effects of the prevailing new conception of the State. Let us first look at Great Britain, a country which no longer merits its old renown as the enemy of government interference.

In 1868 the local divisions of the United Kingdom, counties, boroughs, or parishes, absorbed in taxes and in loans a sum of not more than £36,520,000. This is already a respectable figure, and one which would have made Messrs. Robert de Mohl, Fisco, or Van der Straeten, shudder. In England and Wales alone, thirty or forty years ago, the sum of direct local

taxation was estimated at £12,480,000. In 1873 the local divisions of the United Kingdom still required only £41,000,000, of which £13,480,000 came from loans. But in 1884 these ravenous local administrations demanded £62,720,000 from taxation, from certain municipal industries, and from loans, in the proportion of £43,680,000 from the two first sources of income, and £19,040,000 from the third Thus in the short space of sixteen years the requirements of British local divisions have increased by about three-fourths their former amount.

The Continent is in no way behind England in this respect. The budgets of the Italian provinces, which in 1865 amounted to only £1,640,000, rose by 1875 to £3,320,000, and by 1884 to £4,480,000, while the Italian Communal budgets, which in 1863 amounted only to £10,560,000, rose to £15,880,000 in 1874, and to £22,440,000 in 1885.

In France it is more difficult to make a complete estimate, as our local statistics are very defective. Here are, however, a few data. The expenditure of the city of Paris has passed through the following

stages: in 1813, £920,000 (23 million francs), or 30s. per person; at the end of the Restoration, £1,280,000 (32 million francs), or 38s. 6d. per person. The economic *régime* of Louis Philippe did not alter these proportions: in 1850 the Parisian budget came out again with a charge of 37s. 8d. per head. The Imperial *régime*, under which Paris was practically reconstructed, adopted in 1869 a Parisian budget of £7,320,000 (168 million francs) for a population of 1,800,000, or £3 15s. 6d. a head. In 1887, for rather more than 2,200,000 souls, the Parisian budget rose to £10,280,000 (257 million francs) or about £4 10s. 6d. a head.

The humble budgets of our smaller communes show a much more rapid increase even than this. The following figures will show this: in 1803 the small local additions to direct taxation produced only £2,280,000 (57 million francs); in 1864 they are called upon for £8,240,000 (206 million francs); in 1869 for £9,720,000 (243 million francs); in 1878 for £12,360,000 (309 million francs), and finally in 1888 for £14,160,000 (354 million francs). The increase

is therefore 520% since the beginning of the century, and nearly 50% since 1869. Besides this, the yield of the city dues, which in 1823 was only £1,760,000 (44 million francs), in 1843 was £2,600,000 (65 million francs), in 1862, £5,640,000 (141 million francs), and rose in 1887 to £11,080,000 (277 million francs).

Remember further that the local authorities are threatened with all kinds of new obligatory expenses. A host of projects which would attack both their liberties and their purses are in the air, ready to condense "for the promotion of civilisation."

Let no one therefore maintain that military charges are the sole cause of the rate-payers' sufferings. These military charges have not as yet been in any way burdensome to the local budgets—which, nevertheless, weigh so heavily on an impoverished agriculture and depreciated property.

There are some who would point us for our consolation to an analogous phenomenon, which is to be seen, though in far less proportions, in the United States of America. We find in that country the

remarkable coincidence that whenever the national, provincial, and State debts diminish, those of the municipalities increase. Since 1870 the Federal debt has decreased 42%, that of the different States 25%, that of the counties 8%, while that of the municipalities, on the contrary, has doubled. The entire amount of these debts (State, territorial, county, and municipal), which in 1870 rose to 868 million dollars (in round numbers £174,000,000), had reached in 1886 the sum of 1,146 million dollars (or £23,000,000). It stands nearly as high as the Federal interest-bearing debt, which in 1886 was not more than 1,146 million dollars (or £224,000,000).

Nevertheless, see what an enormous difference there is between the United States and Europe. It may be that in the former country the municipal administration is lazy, wasteful, ill-controlled: but from the above results it would seem that it has not yet abandoned itself, at all events generally, to those ideas of systematic intrusion and meddling which prevail among the European municipalities. In any case the prudent management of the federation, and of the

larger number of States and Provinces which make up the great American Union, serves as a counterpoise to any municipal excesses.

But in Europe, and especially on the Continent, the state of things is very different. Another proof that military and maritime armaments are not solely responsible for the economic sufferings of the nations of the Old World lies in the disorderly outbreak of public works, ill-considered, badly directed, badly utilised, which has run riot everywhere during the last fifteen years. Let us leave Germany out of the reckoning, for she had exceptional resources in the 200 millions sterling she extracted from France, and having a past entirely free from debt, might easily allow herself greater latitude in expenditure. But look at France, with her famous Freycinet scheme, burdened by her own deliberate act with nearly four millions sterling of guaranteed dividends to the railway companies, and paying every year at least another four millions in various annuities on the repayment of loans effected directly for the sake of public works, which are for the most part unproductive.

We still rejoice in a singular power of propagandism, even where our very worst inventions are concerned. The Freycinet mania went the round of Europe, finding imitators everywhere. Austria and Hungary, both of them needy countries, were fired with it, and have since been occupied in exhausting themselves over railroads, madly competing with one another, and exploited by insufficient tariffs. Other countries still more needy are bent on the same task: among them Spain, who seems determined not to let a single private line of railway flourish; also in the course of this year Italy, whose agriculture is in a distressed condition, and whose finances are extremely weak; Portugal again, little Greece, and various others.

Every princeling must have his pages: to-day his pages consist of a complete set of hierarchical functionaries specialised to every possible service that the imagination of legislators can invent, justifying their existence and emoluments by superfluous and superabundant labours and regulations. Civilised peoples are not content with the naïve frankness

of the savage nations. I was told not long since at Tunis that, before our occupation, the Bey had engaged one or two of our engineers by the recommendation of the French Consul: but he gave them nothing to do, contenting himself with paying them their salaries regularly, which was a great mark of his esteem. At last the Chief Engineer, vexed at having no work, went to the First Minister and demanded serious employment—"You receive your payment regularly, what complaint have you to make?" replied the other.

This reply was not, perhaps, quite so foolish as it appears. How much would not the nations of to-day gain if in dealing with these incessant new relays of functionaries they merely paid them their salaries, without expecting any work from them!

This universal tendency in the unquiet Europe of our day constantly to widen the prerogatives of the State may be regarded and judged from many points of view.

No very special perspicacity is needed in order to make us very uneasy as to its immediate practical

effect on public finances, In this sphere it puts an end to all clearness and to all method, it even endangers their probity, and makes them an instrument of oppression for the people, a deep and ever-growing cause of annoyance and alarm.

A little more penetration is needed to determine its political consequences, whether immediate or remote. The inevitable influence of the wider extension of State prerogatives on representative government and on popular liberties, is already beginning to make itself discernible. Experience is gradually demonstrating the fact that complete political liberty can only be maintained in a country where the part played by the State is not unlimitedly extensive, and where no more than a very small section of the nation is bound in the rigid bonds of officialism.

This tendency may further be viewed—and this is the gravest question of all—from the point of view of national energy and vitality, of the development of its forces, both individual and collective, of the maintenance or further advance of those con-

ditions which render social progress both easy and sure.

But before entering upon the study of all these questions, it will be well to dispel, if possible, certain prejudices on the subject of the State, and to examine briefly the essence, the origin, the capacities, and the weaknesses of this mysterious being whose name is pronounced with reverence by so many would-be sages, whom all men invoke, but about whom they all disagree, and who appears to be the only Divinity for which the modern world will retain any confidence or respect.

CHAPTER IV.

Fundamental Difference between the Society and the State.

PRINCIPAL errors as to the nature of the State—The first, based on false physiological comparisons: Schäffle's book—Absurdity of the proposition that the State is to the social body what the brain is to the human body—The State is an organism which lies in the hands of certain individual men—The State must not be confounded with the Society, nor must the individual by himself be placed in opposition to the State—The Society is vaster and more fertile than the State—The infinite number and variety of social groupings—Man is a being with a natural taste for varieties of association—There is no such thing as an isolated individual—The prodigious number of different associations to which the civilized individual belongs—The phenomenon of inter-dependence—All collective requirements are not necessarily within the province of the State—Mistaken belief that outside the bounds of the State nothing is, or can be done except under the inspiration of self-interest—Contempt of Adam Smith and most of the economists for this notion—Incomplete conception of the motives which govern the individual—Human personality is not solely influenced by personal interest—Great variety of the motives which the civilised individual obeys; refined species of *sport* which takes the form of increasing works of general utility—Examples of this philanthropic *sport*.

IN order not to stumble at every step in this examination, we must first clear up two fundamental errors,

one of which is based on pretentious physiological comparisons, while the other comes of a superficial observation and a confusion of the *State* with the *Society*.

We all know how great is the attraction exercised by the physiologists with their interesting discoveries on all the other branches of learning. Many writers on philosophy, and on the social sciences, finding it somewhat difficult to say anything new on a subject-matter which is already old, have hit upon the idea that physiological comparisons might be of great assistance to them.

Among those who are most addicted to this method is a German writer, Dr. Schäffle, an otherwise distinguished man, and one whose writings have proved singularly attractive in many countries. Under the title, *Structure and Life of the Social Body (Bau und Leben des Socialen Körpers)*, he has published four enormous volumes, entirely devoted to comparisons, anatomical, physiological, biological, and psychological, between society and the human individual, considered as body and as soul. He displays through-

out this whole work of comparison an extraordinary ingenuity of mind. Unhappily, the result is not in proportion with the effort.

We fail to see what we should gain in clearness by the use of such expressions as "the pathology and therapeutics of the family," for instance; "the morphology," "the social limbs of technique" *(die sociale Gliederung der Technique)*. The mind sinks overwhelmed under the weight of all these analogies, these endless divisions and subdivisions to which they give rise.

We should leave all this immense mass of comparisons between society and the human body aside as a mere curiosity, if it were not that they have the effect of spreading pernicious errors in all directions, errors which may end in winning unrestrained acceptance.

It was by this means that the doctrine arose that the State is to the social body what the brain is to the human body. This idea detaches itself from the midst of many others much more complicated, and takes hold of the mind; it becomes accustomed to it, and at length we come to behave as if it were true.

Dr. Schäffle having founded the school, others have outbid him. See to what a pitch you may come with these comparisons. A recent writer on the functions of the State expresses himself as follows: "Society is an organism, a whole consisting of organs with their functions, and of living units. The unit, the social cell, or to use a more scientific terminology, the *protoplasm* here is man . . . We find again in Society the same distinctions as in the individual human being, as regards organs, their functions, and their apparatus . . . What the brain is for the individual organism, the State or Government is for Society; a machinery of co-ordination, of direction, and of expenditure, fed by the nutritive organs.

We need go no further in this explanation. Many other metaphors of the same kind might be quoted. Bluntschli said that in Society the State represented the male organ, and the Church the female. Proudhon, with still greater ingenuity, compared the State or the Society to the matrix, which is of itself barren, but which develops the germs confided to it, private initiative being as the male organ.

All these physiological similies are mere *jeux d'esprit*, more or less successful. They create confusion rather than clearness. That which represents the State as the brain of the social body is not only false but harmful; it is an absurdity; it would naturally lead to the absolute subordination of individuals to the State.

Not even by quoting passages from Goethe to prove that the individual is variety, not unity, can the accuracy of all these analogies be finally proved.

There is no comparison possible between the cells of the human body, which have only a vegetative or mechanical life, and human individuals who are intellectual, moral, and free beings. In the human body the nervous system, and especially the brain, are the only centres of will and of thought. Neither hand nor foot can think or will. In the Society each individual, no less than the State, is endowed with thought, with foresight, and with moral sense.

The State may, no doubt, have at a given moment more intelligence, more prudence, and more capacity than such and such an individual; but this superi-

ority is accidental, it does not belong to it of necessity or by its very nature. It is in vain for Von Stein to declare that the State is the highest form of personality. It is only a derivative personality which borrows all its capacities from others. This conception of the State as the highest existing personality corresponds much more to the idea of the ancient theocratic State or absolute monarchy, or, at any rate, to the Prussian Monarchical State which has hardly yet been touched with the representative virus, than to that of the modern parliamentary or elective State, whether bourgeois or democratic.

In point of fact experience shows us that the State is an organism which is committed to the hands of certain men, that the State neither thinks nor wills of itself, but that it thinks and wills only in and by the thought and will of the men who control the organism. There is nothing analogous here to the brain. These men who constantly succeed and replace each other with more or less rapidity, who control the State, who speak in its name, act in its name, and issue commands in its name, are not of a different

physical or mental structure from that of other men. They do not rejoice in any natural superiority, either inborn or inoculated by the very profession they follow.

The functions of the State do not necessarily either enlighten the intelligence or purify the heart. The Church may teach that a man naturally weak when elevated to the priesthood is transformed and endowed with divine graces. But a democratic Society cannot pretend that individuals whom it raises to power, and who represent the legislating and acting State, are endowed with special graces of any kind; nor would it dare to allege that the Holy Spirit descends upon them. No man of education can fail to perceive at a glance the absurdity of all these physiological comparisons, for those who desire anything beyond mere vague and ingenious illustrations. The substance of the brain is an entirely different substance from that of the foot or of the hand: the celebrated gray matter in which the directing power and intellectual capacities reside is quite different from the matter composing the limbs. But, on the

contrary, the molecules which form the concrete and actually governing State are not of a different nature from the other social molecules.

The State is no doubt a regulating and co-ordinating apparatus for certain essential functions. But it is not the only, nor even the principal and superior, organ of thought and movement in Society. This allegation that the State is to the social body what the brain is to the individual must, therefore, be regarded as an empty fancy, or, shall we not rather say, as a folly and an absurdity.

Another error, quite as wide-spread and quite as pernicious as the last, consists in confusing the State with the Society. There are some philosophers who have been guilty of this mistake, and the common herd have followed suit. Yet the two terms are far from being synonymous.

The common practice is to contrast the State with the individual as if there were no intermediate organisation between these two forces. Certain theorists would lead us to suppose that we have on the one hand 40 or 50 millions of isolated individuals,

scattered, and having no bond of union among themselves, incapable of spontaneous combination, of voluntary concerted action, of free co-operation in pursuit of ends which are beyond their individual reach; and on the other hand, confronting this shifting waste of sand, we have the State, the only force which can group together all these thinking molecules and give them cohesion amongst themselves. Humanity is, therefore, required to choose between the intrusion of the State into every branch of economic life, and the simple instinctive movement, the so-called incoherent efforts of 40 or 50 millions of men; each one acting for himself, without concert or mutual understanding, without knowledge or concern of one another.

Nothing can be more false than this conception. The whole of history contradicts it, and the present even more than the past. We must not confuse the free regions of the surrounding social medium, the Society with its spontaneous movement, ever creating new combinations with an inexhaustible fertility; we must not, I say, confuse this with that

apparatus of force and coercion which is called the State.

Society and the State are two different things. We have not only in Society the State on the one side, and the individual on the other: it is puerile to set the action of the former against the sole action of the latter. To begin with, there is the family, which is the first group, having marked characteristics of its own, and an existence whose limits transcend those of the individual.

We find, besides this, an unlimited number of other groupings, some stable, others variable, some formed by nature or custom, others by an established concert, others again the result of chance encounters. The laws of combination in accordance with which human beings unite, become associated together, then subsequently separate and become isolated, are at least as numerous and as complicated as those which chemistry is able to prove and to catalogue among purely material molecules.

Side by side with the political organisation of collective forces, proceeding by way of injunction and

restraint, that is, the State, there arise on all sides other spontaneous forms of collective force, each created with a view to a precise and definite end, and acting with various degrees of energy, sometimes very intense, but altogether without coercion. These are the various associations which answer to some sentiment or interest, some requirement, or some illusion, the religious and philanthropic societies, civil, commercial, and financial companies. They simply swarm: the crop is inexhaustible.

Man is a being with a natural taste for association, not association of the fixed, immovable, rigid sort imposed from without, and embracing his whole existence, like the instinctive associations of bees, ants, and beavers, but association of a flexible and variable kind, and in every possible form. This natural taste has been still further developed in man by education and experience. Most of the ancient associations—for instance the churches, continue to exist, and as each day sees the creation of new ones, the number will end by defying all calculation.

You speak of the isolated individual! But where do

you find such a thing as an isolated individual? I find groupings of every order and kind, associated persons and associated capitals: I see 300 millions of persons united into a single church, altogether without reference to any State: in money matters altogether apart from the national budget I see free societies by the thousand controlling hundreds of thousands of pounds sterling; I see them by the hundred controlling millions of pounds sterling, and by tens controlling hundreds of millions. I examine what we are all agreed in calling the great achievements of contemporary civilisation: and I find that three-fourths, if not nine-tenths of them, have been effected by these various collective energies wielding no coercive force of any kind.

Suppose that I who write these lines, and you who read them were to reckon up—if that be possible—the number of groupings of which we form a part, and of societies to which we belong either with our hearts, or our minds, or our bodies, and of those to which we periodically give some portion of our time, or of our means: or let us count if we can the num-

ber of men to whom by virtue of some special link of free association we can give the name of comrade or of colleague.

We shall then begin to realise how the life of each one of us is intertwined in this enormous network of combinations formed for various purposes which touch upon our profession, our fortune, our opinions, our tastes, our relaxations, our general conception of the world, and our particular conceptions of the arts, literature, the sciences, education, politics, the work of helping others, and so on. How many are the opportunities we have of meeting each other, of discussing, and deliberating, and acting in common! What were the necessary repasts or *symposia* of the Spartans to all our periodical or occasional banquets, which serve constantly to bring together men of differing opinions, professions, and social standings, so that by virtue of the marvellous fecundity of private association, we can always find some point of contact, some common ground with the greater number of our fellow-men?

Some thinkers of to-day have invented a special

term, a somewhat barbarous one, to designate these manifold and freely formed connections of individuals among themselves; they call it *interdependence*, and speak with emotion of the growing progress of this phenomenon.

It cannot be said that the peasant or the working man escapes from these combinations. He also, in almost all cases, belongs to some Mutual Aid Society, some industrial or agricultural associations, or some kind of syndicate, while, if he have any means, as in a healthy country like France is usually the case, he belongs to a round half-dozen more societies, financial and commercial.

It is evident, therefore, that all kinds of collective requirements are not within the domain of the State. Let us hear no more from our philosophers of any such abstraction as the isolated individual; let them no longer ask us, as they sometimes do with an almost touching simplicity, how we should be able to have Banks, Savings Banks, Hospitals, etc., etc., if the State will not condescend to use its coercive power in the creation of these institutions.

At this point we find ourselves confronted with a third error. No reasonable man can deny that between the individual and the State there exists already, and every moment there are freshly constituted an indefinite and growing number of intermediary associations, many of them so vigorous, so lasting, and so large, that the State is at last beginning to feel jealous and to take alarm. Those who represent it, therefore, have formulated the doctrine that "there ought not to be a State within the State," which is quite absurd. For the one thing that characterises the State is its coercive power: but what characterises spontaneous associations is merely the force of persuasion. Therefore, unless the State commits the mistake of delegating some part of its coercive power to certain associations, we are never in danger of having a State within the State.

The error we are now considering consists in the belief that outside the State nothing can be created which is not inspired by personal motives in the direction of pecuniary interest. Economists, even the greatest of them, Adam Smith, have been guilty of

this mistake. "The third function of the State," says Adam Smith, "consists in starting and maintaining certain establishments which are of use to the public, but which is never to the interest of an individual or of a small number to maintain at their expense, because the cost they involve is greater than would be the advantages to accrue to private persons embarking on it."

This statement of Adam Smith is an exaggerated one: the conception he has formed of the motives which govern the individual is incomplete. The economists have generally adopted it, and their fair fame has suffered accordingly. They have mutilated man.

It is not true that the human personality is guided solely by personal interest, or, at least, by the grossest form of this interest, pecuniary profit. It is true that having to contend against so many obstacles to his preservation and well-being, man does *chiefly* obey that motive which is the principal, the most habitual, the most constant, and the most intense, namely, that of personal interest, which in societies

such as ours, based upon exchange of products, takes the form of pecuniary interest.

But in proportion as civilisation develops and wealth increases, so does pecuniary interest cease to absorb the entire man; or, at least, to entirely absorb all men. Other motives co-exist with this one, perhaps in time develop more than it: religious convictions, the hope of another life, the firm resolve to become worthy of it by good actions, or else merely sympathy, the pleasure of ennobling ourselves in our own eyes and in the eyes of our fellow-citizens, the desire to become distinguished, to be talked of, the quest of certain honours, electoral or other, a kind of luxury which revels in the moralisation, the education, and the consolation of others, I had almost said a refined species of *sport* which results in the creation of institutions of general utility thus we have a great variety of sentiments of every shade and degree of disinterestedness, but all tending to the same result—namely, to give the whole of Society a share in the superfluities of individuals. It is, therefore, a great mistake on the part of the economists to

reduce all the motives of individual action to pecuniary interest.

Individuals, by their separate action, but still more by their contributions to free societies, have in all times created a host of institutions whose object was not to yield a revenue: they do so still in our day, and perhaps even more than ever. All the ancient religious foundations have had this origin: Christianity does not enjoy a monopoly in this respect, although this religion more than any other teaches the love of our neighbour. Look at the Mussulman countries: see there what enormous wealth in the form known as *Wakonfs* or *Wakfs* in Turkey and Egypt, or of *habbous* in Tunisia, has been devoted by private persons to the satisfaction both of the moral needs of humanity and of the physical needs of those who suffer. At Tunis, for instance, these *habbous* abound. They hold a considerable share of the governing power. To some of them charming legends are attached. I was shown a well in a desert solitude, and was told: "An Arabian Princess once passed by here, and she suffered terribly from thirst;

when she reached home she supplied the funds necessary to secure that no one else passing by the same spot should suffer the same torments."

Are we to believe that in our industrial societies where faith has perhaps grown a little dead, these habits of munificence have disappeared, these altruistic sentiments, as Spencer terms them, no longer exist? No one with their eyes open could believe such a thing. M. d'Haussonville and M. Maxime du Camp have made us familiar with all the different and widely varying works carried on by *charitable Paris*.

But it is not only in charitable institutions that the force of this motive of individual action manifests itself. The more wealth increases, and the formation of enormous fortunes goes on, the more we find large sums of money separating themselves off, as it were, and then uniting to become treasures for the foundation of disinterested institutions. American millionaires give their millions of dollars to the universities, or others devote hundreds of thousands of pounds or more to the construction of houses in which workingmen may find a comfortable home.

In France we find such and such a philanthropist founds a museum; or a widow, in honour of her husband, starts enterprises at Paris, Genoa, and elsewhere, on a scale which absorbs more than £2,000,000. Such and such a manufacturer, dreaming of Utopia, consecrates an enormous fortune to the foundation and endowment of what he calls a "social palace" or "*familistère*."[1] Special schools spring up, which the State, always slow and inexpert in acting on its own initiative, would not have dared to institute; their expenses are defrayed entirely by private contributions. If our great scientific institutions are in want of improved instruments, some great financier supplies them with what they need. Another such will build an observatory.

These are some instances: but behind these gifts, rendered aristocratic, so to speak, by their size and importance, how many plebeian gifts there are, emanating freely from all kinds of people, quantities of small amounts which in their sum surpass the largest donations of the wealthy.

[1] M. Godin, of Guise.

I think we have now demolished three errors on the subject of the State and the individual: it is not true that the State is to the social body what the brain is to the human body; nor is it true that the individual and the State are the only two forces in the field, since Society produces with a marvellous fertility an infinite number of free intermediate associations; it is not true that the individual obeys one sole motive of action, namely, pecuniary interest; there is in him another tendency which urges him, outside of all considerations of material interest, to occupy himself with collective needs and with the sufferings of others. The demolition of these three widespread errors will help us in the task of distinguishing what the State really is and what should be its *rôle*.

CHAPTER V.

Definition of the State—Genesis of its Functions.

Lowly beginnings of the State—Its two primitive functions: as directive organ of the tribe against outsiders, and as the organ of an elementary common law—Third function, of later development, that of contributing to social development—The organism of the State essentially coercive: the twofold constraint of laws and of taxes, legislative or regulating power and fiscal power—The State in civilised societies takes the form of a trinity: authority national, provincial, and municipal—Genesis of the State's functions—Attributes which to-day seem inherent in the State in reality have but tardily fallen to its share: instance the service of internal security—The plastic nature of the social medium gives birth spontaneously to the organs which are indispensable to Society—Some slight degree of insecurity is preferable to an excess of strenuous regulations—The principle of division of labour has been most active in definitely investing the State with various functions hitherto performed by free spontaneous agencies—Sometimes the plasticity of Society reacts against the faults of the State, by abandoning its organs to return to others of its own spontaneous creation—Laws for the most part were originally only sanctions given to customs which had instinctively grown up—Commercial law is entirely of private origin—Many enterprises which seem naturally unsuited to private initiative are yet undertaken and successfully accomplished by

it—Historically free associations have lent their aid to the State for the services devolving upon it: farmers of taxes—The State is entirely devoid of inventive genius—Almost all human progress is due to "individuals without a mandate"—Hierarchical collectivity is always incapable of the inventive spirit—Instances of the State's barrenness of invention—The State is an organ of criticism, of co-ordination, of generalisation, of vulgarisation—The State is not the highest form of personality—The State is above all an organ of preservation.

WHAT is the State? This is a question somewhat difficult to solve. We all know M. Renan's fine lecture on the theme, "What is a nation?" The nature and essence of the State are no less difficult to determine.

We must not seek the answer in any purely philosophic conception. Only by the examination of historical facts, of human evolution, the attentive study of the fashion of living among different peoples, and of the movement and progress of Society can we discover with any degree of clearness what is the actual concrete State, which is, moreover, a very different thing in different countries and at different times.

Like all other human things the State sprang

from very lowly beginnings. In the far-distant past we find that the State was the guiding organ of the tribe for self-defence against outsiders. It is also the organ of a certain elementary law, an assemblage of very simple rules, traditional and customary, for the maintenance of social relations. The work of defence against the outer world, and the maintenance of justice within, these are the two most essential, irreducible functions of the State. Heaven forefend that I should maintain that they are sufficient for a civilised people, as some economists of the wilder sort have long been preaching! It will be seen in the course of this examination that though I should wish to prevent the State from scattering its energies to infinity, I am none the less prepared to allow it a very considerable share.

The two departments of service which I have just indicated are, moreover, the only two without which the State cannot be conceived as existing. Both, but especially the second, that of administering justice—the *Rechtszweck* of the Germans—

are capable besides of remarkable extension, with ever-increasing complexity of detail, so that the tasks they undertake begin to be positively enormous.

In proportion as society emancipates itself, and increases both in size and in complexity, as it passes from the savage into the barbarous, and from the barbarous to the civilised state, gradually another mission comes to be laid upon the State, that of contributing so far as its nature and its strength allow, and without encroaching upon or hampering the action of other forces, to the perfecting of national life, to that development of wealth and well-being, of morality and of intellectuality, which moderns call progress. It is here that we run the risk of falling into strange exaggerations.

What we mean in so speaking is a contribution, an assistance, an aid, which it affords, but not by any means a direction, an initiative impulse, an absorption of other action into itself. Where it is a question of defending the society against attacks from without, or of preserving peace among its

citizens, there the State plays a dominant part; but where, on the other hand, it is a question of the improvement of social conditions, there the State plays no more than an accessory part. But however accessory it be, it is still of great importance, and very few Governments have yet succeeded in discharging it in an entirely fitting manner.

The concrete State, as we see it at work in all countries, manifests, as an organism, two essential characteristics, which it always possesses, and which, moreover, it is alone in possessing: the power of imposing by methods of constraint upon all the inhabitants of a territory the observance of certain injunctions known by the name of laws or administrative regulations, and the power of raising, also by methods of constraint, from the inhabitants of that territory large sums of money of which it has the free disposal.

The organism of the State is, therefore, essentially coercive: the constraint it exercises takes two forms, the one of laws, the other of taxes. Legislative power, or the power of regulating, and fiscal

power, or the power of taxing—both alike backed up by constraint either active or potential—these are the distinguishing marks of the State.

The organism which possesses these powers may be central, or it may be local, but it is always a part of the State. Provincial and municipal authorities, wielding by virtue of delegation or a remote transmission both regulative and fiscal power, are as much the State as is the central organism.

The State, among the generality of civilised peoples, assumes the form of a trinity: national authorities, provincial authorities, and municipal authorities. Thus, in studying the *rôle* and the mission of the State, we shall have to speak as much of provinces and municipalities as of the national Government. There are, perhaps, even more crying abuses to-day in the commune, the lowliest manifestation of the State, than in its highest manifestation, the Government.

What is the legitimate and useful sphere of action for every kind of public authority, that is, of those which wield the power of constraint?—this is the

question which we have to answer. If we cannot reply to this question with a formula which will be absolutely general and simple, we shall at least find it possible, by studying the various departments of social service in their historical development and in their present conditions, to indicate some of the limits which the State must observe in each of its three forms.

Many writers have exhausted themselves in the attempt to indicate *à priori* what are the essential and what the optional functions of the State. Most of these are arbitrary classifications.

It is impossible theoretically to arrive at a fixed demarcation between the sphere of the State and that of free societies or of individuals. The two spheres often overlap each other, and often displace each other.

History and experience alike prove that all down the ages, functions which to-day are regarded as forming part of the very essence of the State have very tardily fallen to its lot: that at least they have been for a long time partially performed by individuals and by the associations formed by them. Society is

a plastic being which enjoys a marvellous facility for adapting itself to its environment, and for creating those organs which are indispensable to its preservation or to its progress. We cannot brand as false Herbert Spencer's doctrine that every institution which is suited to the performance of collective social functions springs up spontaneously. The idea seems true in a great measure, so long as society is left to its natural plasticity, and is not crushed by authoritative force, that is, by the apparatus of constraint which we call the State.

What can be more natural than to identify the preservation of security with the notion of the State? Experience proves, however, that societies have been able to live, and even to grow and develop—imperfectly and slowly, it is true—without much care for security on the part of the State, and without its having the possibility of ensuring it to the country. Insecurity is no doubt a terrible evil, the most discouraging condition for man: where there is insecurity there is no longer any fixed relation, sometimes even no probable relation between the efforts and sacrifices

of men and the end for the sake of which they consent to these sacrifices and make these efforts. There is no longer any certainty that he who sows will reap. Not only do labour and economy cease to be the surest means of acquiring wealth, but violence becomes a far surer means than they.

The plasticity of society in early or troublous times offered a resistance to this evil. The practice was to place one's self under the protection of some brigand rather more honest than the rest, and to make an agreement with him. This is how it came to pass that brigands played so important a part in ancient times and among primitive peoples: some of them were regarded not as devastators, but as protectors. The great men of Greek antiquity, and of almost every other antiquity, were professed brigands, punctual in their performance and faithful to their word.

In the Middle Ages we frequently find an analogous state of things. The small proprietors of freeholds sought for protection by placing themselves under the patronage of more powerful lords, and became by choice their vassals, or even their serfs.

At the beginnings of the modern time these free and spontaneous organisations outside the State, for ensuring a relative security to men, had not entirely disappeared. In Spain the celebrated Society known as the Holy Hermandad, which ultimately became odious and absurd, rendered very excellent service in the early days of its existence. In Flanders and Italy trade-societies and others often had the same object, to maintain security either for their members or for the public.

We can still find some traces of this kind of combination, which is peculiar to primitive ages and to troublous times. In England and the United States the organisation of special constables, and in the Far West of America, more especially, the lynchers, are the direct successors of all these free associations made for the purpose of security.

Thus even this first and most elementary requirement of society which seems to us to-day only possible of attainment by means of the direct and uninterrupted intervention of the State, was formerly achieved through processes less convenient and in a measure

less complete, by the action of private persons or of free societies.

Insecurity is in any society a cause of slowness of development, but not necessarily of retrogression or decline. Oppression is the only inevitable cause of decay. If Turkish Pachas and the petty officials under them would be content with affording a moderate protection to life and property, or if, at least, they were not subject to such constant changes, and could keep some sort of regularity in their exactions, Turkey would not now be dwindling into decay. Her condition is due to the action of unstable oppressors, which is not only brutal but positively exhausting to the vital forces of the country. Mere insecurity would have a far less serious effect.

We must not, it is true, conclude from this that the first duty of the State in modern societies ought not to be to guarantee security: we are merely concerned to point out that in the course of history the plasticity of society has proved capable, for the relative satisfaction of this primary need, of supplementing the inertia of the State by special organisations of its

own spontaneous creation. It is also necessary to add that even in our own times, in the interests of a very large number of transactions, a slight measure of insecurity is better than an excess of legislation.

It has been by virtue of the principle of division of labour that the State has been invested definitely, constantly, and exclusively with the duty of maintaining security.

Political Economy, when by the pen of Adam Smith it brought into such strong relief the principle of division of labour, shed a singularly broad and penetrating light on the whole of human and even of natural history. This great economic principle has been the means of constituting one after another the chief functions of the State.

A number of services which a free and flexible society would not be incapable of performing for itself, which in fact it has for many centuries performed for itself, have gradually fallen to the lot of the State, simply because it could perform them better, more economically, more completely, with less effort and less expense.

We see, therefore, that one after another these special and definite functions have been clearly defined and permanently handed over to the State by society as soon as the altered conditions of both have rendered it more expedient that such and such a work should be performed by a general coercive force rather than by private and intermittent forces. Those who lynch criminals on the confines of the Far West have neither the time nor the mental qualifications necessary for acquitting themselves always properly of their task: permanent judges would be decidedly preferable. It is the same with special constables, volunteer fire-brigades, independent crossing-sweepers, such as we still see in London: less numerous but permanent bodies of professional workers would perform these offices better.

Thus it is the principle of division of labour, unconsciously applied, which has caused the transfer to the State of certain functions formerly exercised instinctively by society, but now carried on by the State with premeditation.

This kind of cleavage which is gradually made

between the prerogatives of the State and those of the free society has for its object to leave more leisure to individuals for their private tasks, and at the same time to secure the better organisation of certain services. Therefore, we must regard as retrogrades those who propose that we should return to the civil jury, to arbitrary tribunals: unless, of course, we can see in these tendencies a salutary reaction against abuses which the State has allowed to enter into its discharge of the tasks it has undertaken. This would be a case in which the plasticity of society reacted against these defects of the State, by abandoning the organs which it has instituted and returning to others of its own spontaneous creation.

This historical sketch of the genesis of State functions might be carried a great deal further. Thus the legislative power which the State has assumed in certain matters, commercial and other, has not always devolved upon it: it has come latterly and only by degrees. Formerly, it was exercised by individuals and by free societies. The fertile invention of commerce had discovered various clever devices,

bills of exchange, demand-drafts, contracts for future delivery in all their variety, syndicates in stocks, &c., and many others: custom had regulated the employment of all these means: in this way commercial usages were of spontaneous growth and successive development: the State finally laid its hand upon them, took possession of them, generalised them, in some cases improved upon them, but in others spoiled and deformed them.

We can, therefore, only condemn the superficiality of those philosophers who, inhabiting the clouds, and perceiving only in a confused manner on this earth the State in possession of certain instruments, fancy that it is the State which has created them, and utter cries of lamentation, mourning, and woe when anyone speaks of the fertile invention of private associations.

Not only has commercial law this spontaneous origin, but also the general agents and protectors of commerce: the consuls were at first syndics of certain trading communities, though they became public functionaries later on. Commercial jurisdiction has passed through the same vicissitudes.

In almost every order of human activity we see at first free groupings of individuals who undertake to organise certain services of general utility of which ultimately, but it may be only after the lapse of centuries, the State assumes the management and regulation.

It is the same with roads and highways. Even before the 18th century the States, both ancient and modern, constructed a few thoroughfares for military purposes. They did this to discharge a strategetic, not an economic function. Private associations did the rest; the ferries, the bridges constructed by these special brotherhoods which, especially in the South, were called *pontifices*, the toll-roads in England and in many other countries, also toll-bridges, primitive instruments if you will, but which historically preceded by a long time public works carried out by means of imposts, even ports and docks, the work of companies founded and maintained on strictly commercial principles, all these spontaneous growths are still traceable to-day, especially in Great Britain, and by a singular contrast also in some primitive coun-

tries. The only existing highway in Syria, which runs from Beyrout to Damascus, is the work and the property of a private company, a French Society, and a very fairly remunerative property it is.

There are other enterprises which, being still more markedly disinterested in their character, might seem even more unpalatable to private initiative, but which, nevertheless, have often been undertaken by it with signal success. Stuart Mill in his day still classed scientific explorations among the works which in right and in fact devolved upon the State. But could he maintain this to-day? Even thirty years ago he ought to have been careful how he said such a thing. He forgot that the earliest and perhaps the most remarkable of the travellers of modern Europe, Marco Polo, having a father and uncle who were merchants, accompanied them both on a commercial expedition to the court of the Grand Khan of the Moguls, and subsequently extended his journeyings throughout the whole of Asia. He further ignored the incomparable Frenchman, Caillié, who, in the early part of this century, without resources

and without assistance, traversed the dreaded north-western corner of Africa, from Senegal to Morocco, passing through Timbuctoo, which perilous journey was not again attempted until half-a-century later by a young German traveller.

Stuart Mill could not then foresee that the first completed journey through Africa from the Atlantic to the Indian Sea would be accomplished by a free adventurer, subsidised by entirely new forces in the shape of two great newspapers, the one American, the other English. Heaven forefend that I should dispute the fact, that in Spain and Portugal, in England and France, and more recently still elsewhere, the State has given powerful aid to voyages of discovery and to the work of taking possession of the world. All that I wish to prove is that, among the prerogatives which certain feather-brained theorists claim as a monopoly for the State, there are many which have been and which can still be exercised in the happiest manner by free groupings, whether of wealthy men, or of learned men, or of devoted men, or of curious men, or of men who have

thrown into a common stock their share of wealth, of devotion, of learning, or of curiosity.

So far from the State being the origin of all great works of general utility, it can be shown from history, on the contrary, that free associations have constantly lent their machinery to the State for those services which do most unmistakeably devolve upon it.

The State for a long time, some States even to-day, in some measure even the State in France, did not and do not know how to get in their taxes. Hence, we find these private companies, the farmers of revenue who undertook to collect contributions under the Roman empire, and in ancient France, who still exist under our eyes for certain classes of taxation in Spain, Roumania, and Turkey, quite recently in Italy, and, indeed, I may say in many of the French communes, which find it more economical to farm out their taxes than to collect them themselves.

The historical summary we have now given leaves us evidently in a great difficulty. For since most of

the prerogatives which are to-day considered as essential to the State did not belong to it primarily, but long remained in the hands of individuals or of free associations, and only devolved upon the State gradually, through the slow application of the principle of division of labour, and the recognition of the fact that a great collective organ, armed with the power of constraint, is more capable of generalising them than a number of small collective organs, spontaneous and variable, possessing little more than the power of persuasion—how then are we to fix, either for the present or the future, the limits of the domain of the State? This same historical account will, however, give us some assistance by enabling us better to recognise the general characteristics of the State.

The first point which forces itself upon our notice is, that the State is absolutely devoid of inventive genius.

The State is a rigid collective organ, which can only act by means of a complicated apparatus, composed of numerous wheels and systems of wheels,

subordinated one to another; the State is a hierarchy either aristocratic, or bureaucratic, or elective, in which spontaneous thought is by the very nature of things subjected to a prodigious number of controlling and hampering checks. Such a machine can invent nothing.

The State, as a matter of fact, invents nothing, and never has invented anything. The whole or almost the whole of human progress is traceable to particular names, to those exceptional men whom the principal Minister of the Second Empire called "individualities without a mandate."

It is through and by these "individualities without a mandate" that the world advances and develops itself. These are the prophets and inspired teachers who represent the fermentation of the human mass, which is naturally inert.

All hierarchical collectivity, moreover, is incapable of invention. The whole of the Musical Section of the Academy of the Fine Arts could not produce a respectable sonata, nor the Painting Section a good picture. A simple, independent individual, Littré,

made a Dictionary of the first order long before the Forty of the French Academy.

No one can say that while art and science are matters of personal work, the labours of social progress are matters that can be done by the community: nothing is more untrue. New social methods demand a spontaneity of mind and heart, which are only found in certain privileged men. These privileged men are endowed with the gift of persuasion, not the gift of persuading sages, but that of gaining over the simple, and those generous but often timid natures, which are scattered broadcast among the crowd. A single man of initiative, among forty million inhabitants of a country, will always find some bold spirits who will believe in him and follow him, and find their fortune or their ruin with him. He would waste his time if he tried to convince these bureaucratic hierarchies, which are the heavy though necessary organs of the thought and action of the State.

We see, therefore, how sterile, in regard to invention, is this being, whom certain foolish thinkers have

represented as the brain of society. The vocation of a State, of any State, is first and foremost a military one. They represent, above all, the defences of the country. We should, therefore, be inclined to expect that the State, through its functionaries, would produce the greater part of the inventions and appliances relative to war, navigation, and the rapidity of communication. But this is not the case.

The invention of gunpowder is traced to a monk, not to the State. In our century it was only a chemist, the Swedish Noble, belonging to the most peaceable country in Europe, who invented dynamite. Michel Chevalier in July, 1870, called the attention of the Imperial Government to this formidable explosive. During the second siege of Paris, M. Barbe, afterwards Minister of Agriculture, begged M. Thiers to use this new substance. But in both cases, though the Governments were so differently manned, and held such different principles, they paid no attention to these proposals.

The same thing goes on in maritime as in military discoveries; the Marquis of Jouffroy, in 1776, navi-

gated the first steam-boat on the Doubs; but on seeking encouragement from the Minister Calonne he was repulsed. He was a bad Minister, you will say; but in the constant series of Ministers in all countries there are, at least, as many bad or indifferent ones as good ones. Even when Fulton, a quarter of a century later, addressed himself to a really great man—Napoleon—this great statesman considered his attempts childish. While the State disdained steam and was slow in applying it, it was no less incapable of inventing and slow in applying the screw. Sauvage, the inventor, passed from a debtor's prison to a madhouse.

We find the same holds good with regard to communication and locomotion. By the end of the Restoration there were three small railroads working in France, created by private initiative and without State-subsidies of any kind. It took the State ten years to discuss the best kind of railroads, and by its tergiversations, its absurd demands, it proportionately retarded, as I shall show later on, the development of the iron network in our country.

It was ten years after the cutting of the Suez Canal by M. Lavalley's dredging-machine that the French State began to introduce it in its own works in constructing ports and harbours. Neither submarine cables, nor the piercing of isthmuses, nor any other of the principal works which have changed the face of the world are due to our own or to any other State.

Telephones were generally used in all private businesses before the State began to take them up. Afterwards, many States attempted to confiscate them. In the same way the Municipal Council of Paris, by its absurd requirements, retarded for ten years the introduction of the electric light in that city.

The modern State affects a strong predilection for education; yet, the French Central School of Arts and Manufactures was founded by private individuals, and the Commercial Schools of Mulhouse, Lyon, and Havre, were instituted by manufacturers.

The State in a rare moment of initiative wishes to found a *School of Administration*: but it does not

succeed in the attempt. Ultimately, a free School of Political Sciences is started by a private individual who manages to win for it in two years a brilliant renown both in the old and new worlds.

The State in France grows weary of the ancient educational methods which it originally borrowed from a private society—the Jesuits—it is now seized with a violent infatuation for the work of another private society—that of the *Ecole Monge*—it determines all at once to generalise the principles of this school, and to apply them throughout its territory.

I have no wish to contest the services which in some directions the State undoubtedly renders, or to overlook the perfecting in detail which many of its engineers or experts introduce or disseminate. I do not deny that the State has in its service some eminent and distinguished men; I maintain, however, that most of them, when they have the opportunity, prefer to leave the official administration, where advancement is slow and pedantically managed, and is subject to nepotism or senile incapacity, that they may enter the ranks of private enterprise where

men are at once admitted to the rank which their talents and their merit mark out for them.

How could it be otherwise? "The spirit," says the Scripture, like the wind, "bloweth where it listeth." Modern philosophy has rendered this great thought by another formula, "Tout le monde a plus d'esprit que Voltaire." (Everyone has more wit than Voltaire.) It is not within regular limits, prudently and deliberately designed, that the spirit of invention will work; it chooses its *élite* freely from among the crowd.

When we say that the State is essentially lacking in the faculty of invention and in the faculty of promptly applying new discoveries, we have no intention of blackening its character, or laying it open to damaging sarcasms. We are simply portraying its nature, which has different and opposing merits.

From the social point of view again, the State can discover nothing. Bills of exchange, demand drafts, cheques, the multifarious operations of banks, the clearing-house, assurance, savings banks, ingenious methods of payment by profit-sharing, co-operative societies—not one of all these improvements is

traceable to the thought or the action of the State. All these ingenious contrivances have sprung out of the free social medium.

What, then, is the State? It is not a creative organ, by any means. It is an organ of criticism, an organ of generalisation, co-ordination, vulgarisation. It is, above all, an organ of conservation.

The State is a copyist, an enlarger, an exaggerator even. In its copies and adaptations from private enterprises, it runs many chances of making mistakes, or of multiplying indefinitely whatever mistakes it finds in the original from which it is borrowing.

It intervenes after discoveries have been made, and it may then give them a certain amount of assistance. But it may also stifle them: with the intervention of the State—which may, in many cases, be beneficent—we have always this element of caprice to fear, this brutal, monopolising tendency, this *quia nominor leo*. It possesses, in fact, a double power, which it can wield with terrible force, legal constraint and fiscal constraint.

From this very fact that the State is so absolutely

destitute of the faculty of invention, that it possesses only the capacity of assimilation and of co-ordination, and that in a very variable measure, it follows that the State cannot be the first agent, the primary cause of progress in human society: it is not in a position to do more than to play the part of an auxiliary, an agent of propagation, which, moreover, runs the risk of transforming itself, by an injudicious presumption, into an agent of perturbation.

It must, therefore, descend from the throne on which some have attempted to place it.

It follows, further, that the State is not the highest form of personality, as M. Von Stein maintains. It is the largest, no doubt, but not the highest, since it is devoid of that most marvellous of human attributes—the power of invention.

Before entering in detail into the tasks undertaken by the trinity of State-powers—the central, provincial, and communal power—we have thought it desirable to refute these errors, and to lay down these principles. The mission of the State will by this means become all the clearer.

BOOK II.

Special Characteristics of the Modern State—Its Weaknesses—Its Natural Field of Action.

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CHAPTER I.

Nature of the Modern State—The State as Elective, but with a Variable Staff of Officials.

The Modern State in the Western World presents many special characteristics which distinguish it from many ancient and from all the Oriental States—The Modern State rests on the temporary delegation of authority by those who are to submit to it—Idea that the will of the majority makes laws, that the forces of the Government ought to be employed in the interests of the labouring classes: disdain of tradition, naïve confidence in legislative changes—General prejudices against ancient customs and ancient institutions—Decisive influence exercised on the direction of the Modern State by the younger generation—Submission of fathers to their children—Historical experience is far from having pronounced in favour of this organisation.

An apparatus of coercion, subjecting all citizens to the double constraint of the law which regulates

certain acts of their life, and of the impost which carries off a considerable part of their resources: a machine, necessarily complicated in proportion to the extent and variety of the tasks to which it is destined, comprising a constantly increasing number of wheels overlaid or inter-linked with each other, only daring to act slowly and with uniformity for fear of getting out of order—such is the State in its essential features from the time when Society has passed out of the first stages of barbarism. We have already seen that this organism is by nature lacking in one of the fairest attributes which have fallen to the lot of man—the spirit of invention.

We have also gathered from history that the State had for its primary object the conservation of Society: that later on it became incumbent on it gradually and prudently to generalise certain rules and processes discovered by the initiative of private persons or of free associations, and that it requires the support not only of the majority but of the whole of the inhabitants in order that the nation may draw from it all the profit that it has a right to expect.

This second task calls for an important reservation: since human society progresses and develops only by means of the spirit of invention, and since the State is absolutely devoid of this gift, it being a monopoly of the individual and of those infinite and diversified groups which the free individual forms, the State should be ever on the watch with an incessant and attentive care so to circumscribe its own action as that it may not, save in cases of evident necessity, in any degree prejudice individual energy or the liberty of private associations.

I have already said that in the present work I intend to deal, not with the State in itself, which is an abstraction somewhat hard to grasp, but with the Modern State. I do not wish to investigate the duties and properties of the State in the time of Lycurgus or Constantine, nor yet to occupy myself with the mission which to-day devolves upon the State in China or Thibet.

No doubt since man is fundamentally the same everywhere, and the rules which determine his activity are of the same nature everywhere, though

with varying degrees of intensity, it might be said that most of the observations which are suggested by the Modern State of the Western World might, though in a different measure, apply to the ancient and to Asiatic States. Nevertheless, it is well to circumscribe ourselves within certain limits of space and time. The Western State of modern times presents special characteristics in some senses more and in some less fitted and qualified for the performance of certain tasks.

What do we understand by the Modern State of the Western World? It is a State resting mainly on the basis of the temporary delegation of authority by those who are to submit to it. It is an elective State with a variable staff of officials.

It is true that in all times and in almost all countries, election has played some part in the constitution of the State. But in the Western States to-day we find it playing more than an accessory or subordinate part, exercising more than a simple control. The elective principle there has invaded and absorbed everything.

In the Old World, France and Switzerland, and in the New World, all the States except Brazil, present, in the most marked manner, these special features of the Modern Western State. In the other countries belonging to our group of civilisation, Russia alone excepted, we find conditions, if not identical, at least very analogous: in certain of them we find some counterpoise to the elective *régime;* but in England, Belgium, Holland, the Scandinavian States, in Portugal, Spain, Italy, Brazil, even in Austria, these counterpoises are but slight, and they do not prevent the elective principle from having the general direction of the policy of these States.

In Germany, or rather Prussia, we find different conditions obtaining to-day. The elective principle there has been seriously kept in check, more by the course of events and the ascendancy of certain exceptionally gifted and exceptionally fortunate men, than by the actual constitution of the State. The constitution did but leave the door open to aspirations which will necessarily, sooner or later, have their

vent, and which cannot fail to find satisfaction in some way or other.

Whatever may be the minutiæ of Government machinery, public opinion, in all the Christian nations everywhere to-day, obeys the same general impulses: the idea that the will of the greater number makes law, that the forces of Government ought to be employed as much as possible in the relief of the labouring classes, a certain contempt for tradition, a naïve confidence in legislative changes—such is the social atmosphere in which the nations of the Western World, in modern times, are working.

Ennius, the old Latin poet, fragments of whose writings have remained to us, might write:

Moribus antiquis res stat Romana virisque.

But to-day very few people have any care for ancient manners and customs: the general prejudice is against them. M. de Play, the social reformer, may preach to his contemporaries the duty of yielding to old age the predominating influence in public life. I do not know if this would even be desirable, but, in

any case, there are no signs that people are becoming converted to this doctrine.

We do, no doubt, find some old men holding a prominent place in politics, only recently in France, and at this moment in Germany, England, and Italy. But these are usually men of a daring and enthusiastic temperament, who, by one of those caprices of fancy in which old age sometimes indulges, become the servants of the ideas by which the younger generation are possessed, and are often in their decline fonder of novelties than either in their youth or their maturity. Mr. Gladstone presents an instance of this, and, perhaps, also M. Thiers.

The younger generation has a marked influence on the general direction of the Modern State. First, they have considerable weight by their votes. For the last 20 to 25 years there have been in France 1,400,000 electors, and deducting those who are included in the ranks of the army, there still remain 1,000,000 young men, almost youths, all active citizens, very few of whom abstain from voting, who represent a tenth part of the regis-

tered electorate, and an eighth of the actual working electorate.

These younger generations have still more weight through the influence they exert. It is well known that in the modern family, instead of the father guiding the child, the latter, when he is grown up, guides his father.[1] If we further take account of the fact that in all countries rival political parties are only separated by a comparatively small number of votes, we may conclude that the youngest and least experienced portion of the nation is in modern times practically in possession of the conduct of affairs.

I will not stay here to examine whether this state of things may be considered as final. It presents some advantages, and many very real inconveniences.

It is difficult to believe that in this organisation humanity will ultimately choose to make its permanent resting-place. The Oriental peoples, some of whom,

[1] This tendency is not peculiar only to France and the United States of America ; we find it again in Russia. Tourguenieff's novel, *Fathers and Children*, gives us proof of it. The Russian author goes so far as to represent men of forty or forty-five years belonging to the upper or middle-classes as old men in ecstatic admiration over their children.

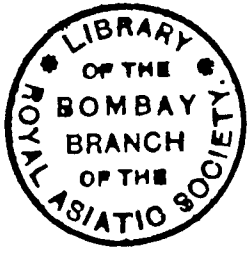
notably the Chinese, seem destined shortly to make their entry on the scene of political affairs, are dominated by an entirely different conception of social life. But besides this, the study of history does not lead us to augur very favourably for the organisation which our fathers and grandfathers hailed with so much enthusiasm.

The past seems to prove that kings and aristocracies make States, and that, left to themselves, the people unmake them.

I shall carefully refrain from any definite prophecies as to the future. But it seems to me not improbable that, after a considerable lapse of time, it may be, and after much painful groping and many severe shocks from different quarters, nations whose territories are thickly populated, and who are surrounded by dangerous neighbours, will revert to the system of great administrative monarchies, like that of ancient France, only with more checks and counterpoises, or rather like that of the existing Prussian monarchy, or again, like the Roman Empire in its best days, which lasted over a period of at least two centuries.

But these are only conjectures. We have now to study what the Modern State, that is, the State more or less elective, and with a variable staff of officials, can and ought to do for the conservation of societies and the progress of civilisation.

Let us compare the vast ambitions to which it is now being prompted with the means it has at its disposal and the results that it has shown itself capable of attaining.



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CHAPTER II.

Consequences of the Special Nature of the Modern State.

THIS Modern State is a prey successively to infatuations of every kind—The Modern State of to-day represents the zenith of the temporary infatuation for the majority of the nation—Different kinds of infatuation to which the Modern State may become a victim—The elections are like an instantaneous photograph which takes a horse at a gallop and represents him as galloping for ever—Legislation in Modern States is necessarily almost always extreme either in the direction of action or of reaction—Parliamentary over-pressure: happy effects of obstruction and of the *referendum*—The Modern State has very little sequence, either in ideas or in the personages which compose it—The principle of *victoribus spolia*—If it avoids this peril, the State falls into *gerontocracy*—The Modern State by its very definition lacks impartiality, seeing that it is government by a party—The party in power has never more than a precarious possession of it—The principle of division of labour creates the class of politicians, with all their special vices—The precarious tenure of power gives to the officers of the Modern State a feverish and superficial energy—Analogous effects produced by Oriental despotisms and by contemporary democracy: pillage of public resources—The Modern State has very little grasp of social interests in

their synthetic form—It has more appreciation of immediate interests, however secondary, than of far-distant interests even of primary importance—The functionaries of the State have neither the stimulus nor the restraint of personal interest —The State is sheltered from the action of competition— Reply to the objection as to the vital competition between parties and between States—Of the so-called right of secession —Personal emigration—Forgetfulness of modesty in the Modern State.

THE general characteristics of the Modern State entail very serious consequences. It would be absurd to pass them over in silence as do so many who deal with the mission of the State.

The first of these characteristics is that since the Modern State is constituted from out of the mass of its citizens by delegation of authority for short periods, it is not only not in its essence more intelligent than they—especially than the more enlightened among them—but also it is subject to all the successive prejudices which dominate and which lead astray the human kind: it is a prey to all kinds of infatuations one after another.

But more than this, it is in itself always in some sort the *résumé*, the accentuation, the intensification

of the special kind of infatuation prevalent in the country at the last renewal of the public authorities, that is, at the last general election.

This characteristic of the Modern State has not been sufficiently insisted on. The Modern State expresses for four or five years at a time the will not of the whole nation, but of a mere majority, and often of a majority that is more apparent than real: and further, it expresses this will as it was manifested at a period of excitement and of fever. Elections are not preceded by retreats, by fasting, and by prayer; they are not conducted in silence and meditation. But even if this were the case, they would still be defective, since it is incidental to human nature that the elections should always be influenced by intrigue, and by the prestige which professional politicians and all turbulent, excited, and ambitious persons know how to win among those yielding and timid souls who practically form the great bulk of the electorate. The elections take place amid noise and uproar and confusion.

The modern elector is like the poor wretch whom

the recruiting sergeant of former days caught in the public thoroughfare, and whom, when he had turned his head with wine and promises, he would get to sign an engagement for the army. The same methods of procedure are employed in both cases. Thus the Modern State in general represents the highest triumph of the momentary infatuation of the majority of the nation.

For there is no time or season which has not its dominant infatuations: the infatuation for force and repression, or, on the other hand, for unlimited individual liberty; the infatuation for public works, or for some special form of public works, railroads, canals, monuments; the infatuation for or against religion; the infatuation for public instruction in all its forms; the infatuation for tutelage and excess of regulation; the infatuation for freedom of exchange, or for restricted exchange and for protection, etc. There are a thousand different forms of infatuation to which in their turn a nation is ready to yield.

Each of these infatuations, that is to say, each of these incomplete or exaggerated conceptions, entails

perils for the society, perils of every kind. The duty of the State is to endeavour seriously to resist being so carried away, and to dominate and restrain these caprices. But so far from doing this, the Modern State by the very circumstances of its origin must in a sense multiply and prolong for four or five years the infatuation of a moment.

The Modern State represents the nation much as the instantaneous photograph represents the horse which it takes in the act of galloping, and which, as far as it is concerned, remains at a gallop for ever.

Legislation in Modern States, therefore, almost always goes further than public opinion would desire, when it has subsided after the excitement induced by the elections. Thus it frequently happens that one Chamber or House is followed by another animated by an absolutely contrary spirit; and this also explains the frequent contradiction, the almost immediate reversal which is given to the general election by succeeding bye-elections.

The legislation of Modern States is of necessity almost always extreme, either in the direction of

action or of reaction. One legislature spends three-parts of its time in undoing what the one or two preceding legislatures have done. There are two remedies possible for this intemperance, this excess in legislation: the one is obstruction working within the Parliament itself, the other is the *referendum*, or ratification by the entire electorate of any important laws which have just been voted by the Chambers.

It is not likely that society will ever fully appreciate the enormous services which parliamentary obstruction renders to the nation. It ensures repose and continuity in the conditions of existence. For one good measure whose adoption it may retard, there are nine bad or useless measures which it casts into the limbo of forgotten things. The celebrated "massacre of the innocents," to which the English Parliament sets itself in the last days of the session, is often the best piece of work it does in the whole session. For the same reasons, it would be a mistake to lay aside in France, as it has been proposed to do, the practice of allowing all proposals to lapse

which by the expiration of the life of a Parliament have only been voted by one Chamber.

A great deal has been said about educational "over-pressure," but not enough about parliamentary "over-pressure," which is much more real and more dangerous. Against educational "over-pressure" there is some guarantee, some refuge, in the children's happy faculty of inattention: their body is present at the class, but their mind is often far away. Against parliamentary "over-pressure" there is some slight refuge and guarantee in that same useful but much calumniated weapon of obstruction just referred to, with all its methods of procedure, some ingenious, some naïve. But for a really serious democratic society yet another check is needed—the *referendum*, or popular sanction of the most important laws. The *referendum* is a defensive weapon which societies should always keep in reserve against the too hasty impulses of their irrevocable mandatories.

This first and greatest vice of the Modern State, namely, that it intensifies and prolongs through many consecutive years the particular infatuation or

enthusiasm which prevailed in the country for a few days, leads us to speak of a second weakness which springs out of the first. The Modern State never has a complete sequence of ideas, nor yet of *personale.*

We think it will be enough to enunciate this proposition without its being necessary to demonstrate it. Since all governing power springs from elections which take place often, the *personale* which represents the State is very variable. The more the elective principle has play in a State, the more this instability becomes apparent. Formerly only ministers and certain very high and very well remunerated functions were affected by it, but now it shows a tendency to penetrate the entire administrative body. Since political struggles in most countries go on not only between two conflicting bodies of doctrine, but also between two bodies of greedy politicians, most of them without resources or other means of subsistence, it follows that the triumph of either camp means a general clearance throughout.

The more society approaches the purely democratic *régime,* the more marked is this instability.

Eventually it becomes the rule and finds its formula. When General Jackson, one of the most fiery Presidents of the United States, pronounced the famous dictum, *Victoribus spolia*, the spoils to the conqueror, he spoke a language familiar to the politicians of both worlds, and which tends to become universal.

France is becoming Americanised on this point. To quote but a small fact, which is, however, strangely significant: in 1887 at the interment of one of the high functionaries of the Ministry of Finance, a colleague of the deceased, well-known in other quarters, took up his parable, being, he said, the senior member of the general chiefs of the Ministry—he being forty-five or forty-six years old at the very most. How many revocations or premature superannuations had been necessary before this precocious person could arrive at his position of seniority!

In the ancient monarchies, and even in an authoritative monarchy like that of Prussia to-day, we find an entirely different set of conditions. There the danger rather is of falling into gerontocracy—or the despot-

ism of old age. The State, in fact, since it has no chance of exercising, for the recruiting of its functionaries, the same enlightened, reflective, independent choice which private individuals usually exercise towards the persons they employ, can with difficulty avoid falling into one or the other error: either the caprice which is constantly substituting for experienced men new-comers who have served no apprenticeship, or the fixity which makes advancement in years the habitual rule, which discourages on the whole the most specially gifted natures, and which often retains aged public servants in high posts long after they have ceased to have sufficient strength to fill them. But this latter disadvantage is on the whole less than the former.

It is still more desirable for the good constitution of public services that the functionary shall be considered to have a proprietary tenure of his function: this is the case in Prussia, or rather throughout the whole of Germany. There, a post once attained is held, if not for life, at least for a long period fixed in advance, except in very rare cases of evident pro-

fessional faults.[1] The Prussian functionary is almost as much a proprietor of his rank and of his salary, I do not say precisely of his post, as the French officer is of his grade. Even then, there is always the possible reproach of gerontocracy and of the insufficiency of the tests of merit which are applied at the beginning and at the various stages of any career.

The instability of the *personale* in the Modern State —outside those monarchies which stand on a firm basis of authority—results in a certain incoherence in the action of the State, or at least in a difficulty in making the machine work with regularity and precision, with flexibility and caution, in order that it may produce its full effect without disturbance or injury to anyone. For clearness and precision of will and for intelligent continuity of effort the Modern State lags far behind gifted individuals, or even behind well-conducted corporations.

[1] Die Ernennung giebt, sofort oder (öfters) nach eines bestimmten Probezeit einen Rechtsanspruch auf das klaglos verwaltete Amt, bez. auf dessen Besoldung (Gehalt), theils die Lebenszeit, theils auch nur für bestimmte längere Perioden, &c. (Wagner, Finanz-Wissenschaft, i., p. 99.)

This leads us to a third defect, which is in some respects the gravest of all, and which working in and with the other two contributes to their development and renders them still more harmful. In theory the State represents the whole body of citizens: the State is therefore theoretically the impartial being *par excellence*. Now, in the Modern State this impartiality is entirely illusory: it does not, and cannot exist. Absolute and undisputed monarchies may pretend to this ideal of sovereign impartiality. It is scarcely possible that even they should attain it completely, but there is nothing in their actual constitution to disqualify them for it. The Modern State, on the contrary, the State based upon election, cannot by its very constitution be impartial: it runs counter to its very definition, since it is government by a party.

The State, as conceived by the Western nations today, is the actual mandatory, not of the whole number of citizens, but simply of the majority, and generally a weak majority, instantaneous, momentary, precarious, variable. Not only is there a party in

power, but it is a party always threatened by a rival party, and in constant fear of losing this power which it has with such difficulty conquered. Moreover, there are not only ideas and sentiments, there are also solid interests which in our greedy societies of to-day may be favoured by the possession of power.

A celebrated minister and clever thinker said one day that politics are not the work of saints. Forestalling this avowal, Scripture, always so marvellously clear-sighted, has assigned to "the violent" the conquest of heaven itself: *violenti rapiunt illud*, the violent take it by force. Violence, in modern political struggles, disguises itself usually in the form of ruse and intrigue, but the partiality remains. It is further increased by the workings of the active principles of division of labour and specialisation of professions. The conduct of the affairs of State becomes a trade, not a gratuitous labour; men live by the State just as they do by the Altar; but there are always two rival sets of officials, if not three or four, who dispute the claim to this pittance, the one fasting while the other feeds, each having its *clientele* which it is bound to satisfy.

Thus the Modern State, which philosophers and abstract thinkers hold to be the most disinterested personality there is, in point of fact, is vowed to partiality, unstinted and unremitting. A few high-minded statesmen, who personally have a soul above purely pecuniary interests, may endeavour to escape this tendency or to moderate it; but they can scarcely succeed in doing so; they are obliged to make constant sacrifices to the party which raised them to power and which keeps them there; even if they are not naturally inclined to be partial, they are obliged to become so as resignedly as they may, for purely tactical reasons.

As a simple matter of theory, again, we might be led to believe that the State is less hurried than any other existing personality, that it has before it longer periods of time than any other to look forward to for the execution of its will, that it can afford not to be in haste, but to do everything at a steady and measured pace. But this again is a mistake: those who man the Modern State have but a precarious footing: they know that they will have only two,

three, or four years, rarely seven or eight, in which to execute their plans and satisfy their party. Ministerial tenures of ten, fifteen, or twenty years, like those of Tully, Richelieu, Colbert, Louvois, are altogether beyond their reach. They must act quickly, without rest or hesitation, otherwise the rival that treads on their heels, their enemy and presumptive successor, will surprise and overthrow them before they have done anything. Hence this feverish activity which dips into everything at once, and incessantly deafens itself by the noise of its own humming.

Everyone knows how fatal is precarious possession, both to the prosperity of land and of enterprise. Precarious possession in the State is productive of similar inconveniences, not so great, no doubt, where custom and law allows but a limited sphere of action to the public authorities, but enormous where this sphere of action is extended and tends to break all bounds.

See how institutions different in appearance, but very similar at bottom, produce analogous results.

We know that some eastern monarchies have their ministers constantly changed: and the result is administrative confusion, and the pillage of the treasury. Modern States have also a variable *personnel*, and one which tends every day to become more so; and here the same results ensue, administrative disorganisation and pillage of the public resources.

This pillage, it is true, operates in a different manner, and by a more hypocritical method, under gentler forms, and preserving generally a show of legality. The wealth of the community is appropriated for the creation of superfluous posts, for the premature superannuation of still strong and capable functionaries. Thus we find in France, that for fifteen years the sum devoted to pensions has shown an increase of 100 million francs yearly; which means the establishment of at least 200,000 new functionaries in the same period. Thus, in spite of the resistance offered by Government etiquette, the intrigues and caprices of Oriental despots, and the intrigues and caprices of the electorate produce effects of the same nature.

We have not yet exhausted the enumeration of all the special features which characterise the Modern State and exert an influence on all its actions. One of the least recognised of its features, but which is productive of the most serious consequences, is the general conception which the modern elective State forms of the interests of society, and hence of the means by which they are to be satisfied.

In consequence of its origin, which is by incessant election, always disputed and often indecisive, the Modern State hardly ever conceives of social interests in a synthetic form: it sees them only parcelled out into small portions, and in a condition of antagonism towards each other. It has never, so to say, more than particular interests in view: the absolute collective interest of the whole entirely escapes it. It shares the very common notion that the general interest of the whole is the sum of the various particular interests of its parts, a proposition which holds good in ordinary cases, but which cannot always be admitted without reserve. Take one of the most debatable questions of our time—that of custom-

house relations with foreign countries. The Modern State will be much more struck with the number of particular interests, concerned in protection, or, at least, who think themselves concerned in it (for these particular interests often deceive themselves and are the dupes of appearances), than with the general stimulus, the gradual increase of vitality which a liberal commercial *régime* would secure to the whole country. It is the same with public works, with education, and with the national forces.

As well as being more concerned with particular interests than with the synthetic interest of the nation, the Modern State, for the same reasons of origin and precarious tenure, is also more sensible of immediate and present interests than of larger interests which are deferred or distant. Hence it runs counter to one of the most important missions of the State, which is to preserve the future, even the far-distant future.

There are still two more weaknesses, which are peculiar to all States, not only to the modern elective State. From the strictly professional point of view,

in the technical works which they direct, public functionaries have neither the stimulus nor the restraint of personal interest.

By the habitual conditions under which they work they find themselves, as it were, in some measure detached from their work, or, at least, from some of the consequences of their work. No doubt they may be animated by lofty sentiments and zeal for the public good. But this zeal has not the sanction of the natural rebound of the practical results of their work upon themselves. Even the sentiment of honour, which is the highest and most potent of all by which they are inspired, may sometimes lead them astray. They often allow themselves to be deceived as to the real character of their mission; they strive after the great instead of the useful, they work for ends which may bring them honour and distinction, instead of fulfilling the humble and common-place tasks which appertain to the daily round. Even in enterprises which they undertake for the community they adopt an æsthetic point of view which involves them in a

great waste of force. We see this in the construction of highways, roads, and schools.

I now have to notice the last of the State's weaknesses, whether it be ancient or modern, republican or monarchical, moderate or despotic. The State is debarred from the action of competition, the most energetic of all the social forces, and the one which most actively subserves the improvement of individuals and of society.

With this double power of legal and fiscal constraint which has devolved upon it, the State, when acting within the territory of the nation, has no fear of being supplanted, annulled or suppressed. Being a personality without a rival, the only one of its species, it is secure from the danger of eviction or annihilation which besets individuals or free associations which fulfil their task indifferently or badly.

Here some objections will perhaps be raised; it will be said that if the State considered *in abstracto* is secure from all competition, the political parties which contest the State, and which by turns have possession of it, are, on the contrary, in the condition

of constant and desperate competitors. This is true, but the objection, though not entirely without weight, has not a very considerable bearing. These contending parties are, no doubt, severely critical of each other, and each other's merciless opponents; but beyond the general ideas which they obey, and which are different in each, their practical administrative procedure and the defects which are inherent in their nature are much the same, though varying somewhat in their degrees of intensity.

Another and better founded objection is that the State has to face vital competition, if not within its own boundaries, at least in its relations with neighbouring States, a competition which even at times takes a most energetic and dramatic form, in war, invasion, dismemberment, or annexation. This objection is valid; war is one of the forms of competition between States. There can be no doubt that nations, weakened by a vicious organisation or direction, or by inherent cowardice, have in the past fallen a prey to strong nations; and, with all due deference to those who dream of universal peace, there is no-

thing to prove that it will be otherwise in the future.

But this kind of competition between nations does not apply to the whole sphere of national activity; it concerns a special manifestation of that activity, its military organisation, and its political organisation, on which latter, in spite of superficial judgments to the contrary, the former essentially depends.

Further, this kind of competition acts only at long intervals, which have no regular periodicity, and it is therefore apt to be forgotten and lost sight of. On most minds it has only the slight influence which is always exerted on short-sighted natures by events that are uncertain and of indeterminate issue.

One ingenious writer has supposed that some day it might be possible to institute between different States a permanent and palpable competition which would always remain active: he sees some signs of its coming already, even without the hypothesis of war. "The idea of subjecting Governments to a *régime* of competition," writes M. de Molinari, "is at present generally regarded as chimerical. But on

this point facts are perhaps in advance of theories. The right of secession, which is already making its way in the world, would involve as a necessary consequence *liberty of government*. When once this right shall be recognised and applied in its natural extent, *political competition* will supplement competition in agriculture, industry, and commerce." And below, the same clever writer remarks: "Why should not political monopolies in their turn disappear as industrial and commercial monopolies are now in process of doing?"

M. de Molinari is one of the most subtle writers of our day. This one passage is enough to display the force of his imagination. But the right of secession is not by any means making its way in the world. Neither the *Sonderbund* in Switzerland nor the confederated States in America have been able to carry out their design. In vain did Alsace-Lorraine protest, and there seems little likelihood that its protests alone, however persevering, will ever suffice to break off its enforced union with Germany.

The right of secession exists, it is true, for isolated

individuals. It takes the form of freedom of emigration and of nationalisation among another people. From one to two hundred thousand Germans, and almost as many Italians exercise this individual right every year. But much resolution is required to exercise it, it entails many sacrifices and much suffering; for no one can carry his fatherland on the soles of his feet, as the old revolutionist says. Besides, this practice of emigration, at least in such vast proportions, belongs to a passing phase in the world's development, being a consequence of the insufficiency of population in countries recently discovered—it is therefore only a transitory fact.

Lastly, competition in civil, commercial, and industrial life carries with it the power on the part of a customer of changing his dealers ten, twenty times, and of returning at last, if he will, to his first love. But we cannot conceive a man's changing his nationality successively six or seven times, and recurring some time sooner or later to his own nationality again.

We are therefore led to conclude that, in spite of

the struggles of political parties, always jealous and critical towards each other, always calumniating each other and disputing for power; in spite of the possibility of war which is for ever threatening weak nations with the danger of falling victims to the strong ones; in spite, again, of the phenomena of emigration and nationalisation—which involves that of denationalisation—no competition that is permanent, indefinite, always on the watch, exists for public administration in the sense, and with the intensity, with which it exists for the enterprises undertaken by individuals or by free associations.

We have now enumerated the chief failings of the State generally, and of the Modern State in particular. Here are sufficient causes for modesty on its part. If the State could examine its conscience every night, in the absence of all flatterers, and in that privacy which is unfortunately denied to it, surely it would become conscious of the fact that it has many defects, that its nature is full of contradictions and incoherences, that its paramount duty is to cultivate prudence and reserve, and to limit its action

to what is strictly indispensable. So far from this, however, the Modern State is as full of presumption as children are, or conquerors; those by whom it is manned wage ever a desperate struggle, which is constantly renewing itself; they have all the pride and consciousness of triumph, and all the impassioned eagerness of men who feel that they have only a precarious tenure of power.

CHAPTER III.

Comparison between the Modern State and Limited Joint Stock Companies.

ALLEGATION that the vices of the Modern State are the same as those of the Limited Joint Stock Companies which are to-day gradually monopolising the whole of production—First answer to this proposition : personal enterprises or so-called collective and limited liability companies have a large place in the contemporary organisation of society—Joint Stock Companies are singularly different in constitution from the Modern State : they are not democracies with a variable *personale* : the only suffrage is that of the shareholders—Joint Stock Companies, if they prosper, transform themselves into aristocracies or moderate monarchies—Right and facility of secession for discontented members—The bureaucracy of Joint Stock Companies is more flexible and more efficient than that of the State—The Modern State in the choice of its functionaries rarely takes the purely technical point of view—The Modern State claims that its functionary should belong to it entirely, in political opinions, in intelligence, everything—The employés of Joint Stock Companies are allowed full liberty outside the professional sphere—In the long run the *personale* of modern State functionaries must be inferior to that of well-managed Joint Stock Companies—The elasticity of Joint Stock Companies proved by their action in times of crisis—

The organism of the State does not lend itself to such sudden retrenchments—Difference of position between a general assembly of shareholders and an elective parliament with respect to employés and costs of administration generally—Nepotism in Joint Stock Companies is less dangerous than in the Modern State, because in the former the highest functions are more permanent—Any private enterprise which becomes lax in the fulfilment of its work soon becomes compromised, and drops out of the running; the reduction of dividends or the fall of prices on the Exchange is a much more effectual warning to shareholders than a mere budget deficit is to a Parliament—The consequences of mistakes on the part of Joint Stock Companies fall only upon those who, if only by negligence, have some participation in them; the consequences of mistakes made by the State fall even upon those who have denounced and combated them—The mistakes of the State are complete mistakes, those of Joint Stock Companies almost always partial ones—General rules which result from these considerations—The responsibility of the State for the faults of its agents is always more difficult to bring home than that of Joint Stock Companies—Instances of this—The necessity of cultivating free collective habits of action in order to maintain the flexibility of the social body must never be lost sight of—Insidious mode of influence which the State exercises—Instance of this—Enormous responsibility which the State assumes on this head—Obliged to act always on a large scale, the State multiplies the errors which are necessarily so frequent in human endeavours.

IT will be said that these weaknesses and these vices are incidental to free associations on a large scale, to gigantic Joint Stock Companies quite as much as to the State.

Contemporary Socialism maintains that since production is now only possible on a large scale, being dependent on great masses of capital, which in their turn belong only to groups of individuals, there can be no question in the modern world of strictly individual enterprises placed directly under the eye of the master, but only of collective enterprises conducted by paid agents who have but little interest in the general results of their work.

I have shown in my work entitled *Collectivism, a critical examination of the new Socialism*, how exaggerated this reasoning is: it contains a double fallacy, first in affirming that all production must henceforth be on a large scale, and next by the comparison, which is mainly factitious, of State methods and processes to those of Joint Stock Companies.[1]

I shall not dwell here upon the first of these points,

[1] See my work *Collectivism, a critical examination of the new Socialism.* Second Edition, pub. by Guillanmin, especially pp. 347-358. Also my work, *Essay on the Distribution of Wealth and the tendency towards less inequality of conditions* (3rd Ed., Guillanmin) especially chapter xii., which deals with Joint Stock Companies, pp. 314-339.

the maintenance of small and medium-sized industries side by side with the large industry, in almost every sphere of human enterprise: in agriculture, in wholesale and retail trade, in the manufacture of all products which do not demand motors of an enormous power; to do so would lead me far beyond the limits of my subject. On the other hand it is indispensable for me to show wherein the methods and procedure of Joint Stock Companies, however vast, differ from the methods which the State necessarily follows.

Joint Stock Companies do no doubt in varying measures partake of the inevitable defects of collective action; they have not always the absolute unity of direction which characterises individual enterprises; but this is not, in any case, their chief and most general vice, for prosperous Joint Stock Companies are almost always very much concentrated; they are, however, usually lacking in flexibility, and in the rapidity of conception and execution which characterises all good personal enterprises; they are more liable to embark in useless expenditure, more subject to *leakage*, as it is called. Nevertheless, we

shall see on examining them that their mode of action is singularly different from that of the State.

In the first place Joint Stock Companies are not democracies with a variable *personale;* they rest upon the suffrages of shareholders; for in order to possess a single vote at their meetings one must hold many hundred pounds' worth of shares; and inasmuch as it is rare for a person to have all his funds in the same business, we may say that, with the exception of a few small local or popular enterprises, the members of Joint Stock Companies who enjoy the right of suffrage are all persons possessed of considerable means and imbued with all those weighty ideas, all those habits of patience and orderliness, which competency generally confers. Further, votes in these assemblies are not counted by the head, but up to a certain limit, which is a tolerably high one, they are reckoned in proportion to the interest possessed by each associate in the enterprise.

From this and other circumstances—such as the prestige which accrues to the founders in any prosperous enterprise of associated capitals, the confidence

which is generally placed in them by shareholders, who, as a rule, have other matters to occupy them, and who are free from the influence of passion—which is not the case in political elections—it results that successful Joint Stock Companies are in the long run transformed as a matter of fact into aristocracies or limited monarchies.

A glance at the great associations of capital in France, in England, and elsewhere, is enough to convince us that most of them have an aristocratic, and some an almost monarchic organisation. By this means, the larger Joint Stock Companies, those which specially merit our attention, are protected from the risks of sudden changes; they preserve a respect for tradition, for established rules, for continuity of action, which stands in singularly strong contrast with the contrary tendencies which animate the Modern State.

One of the factors which contribute to this permanence of persons and regulations in large associations of capital is the right of members to quit them at any time, if they are not satisfied with their con-

duct. Thanks to the stock-markets or exchanges, they can at any moment divest themselves of their titles, and become strangers to an enterprise which no longer seems to them to be adhering to sound principles. The right of secession is thus very easy of application in free collective enterprises in the form of Limited Joint Stock Companies, while it is exceedingly difficult of exercise for the individual as member of the State.

The bureaucracy of these companies in the hands of good directors is a much more flexible and much more efficient one than that of the State. This is incontestable, and arises from several causes. Existing only for one special end, and being thus disengaged from all political and religious considerations, having no popular electorate to fear, assured, moreover, of the support of their shareholders every time they propose an economy, Joint Stock Companies enjoy an independence of action which the State does not and cannot possess.

It is easy to cry down a bureaucracy: none the less is it indispensable; and they are none the less

foolish, however numerous they may be, who demand at one and the same time the extension of the State's prerogatives and suppression, or at any rate reduction, of the bureaucracy. That of Joint Stock Companies is at once more coherent, more prompt, and more agile than that of the State.

These companies are in no wise hampered in the choice of directors and chiefs: the State on the contrary *is* hampered; first, by considerations of policy which dictate or forbid certain kinds of choice, and next by stringent rules which it has been forced to lay down regarding the admission to certain public functions by examinations, grades, etc., and which were designed to prevent the possibility of a too shameless favouritism.

Has there not been a great clamour raised in France since 1880, because a Minister, and that one of the most popular men in the country, placed at the head of the Ministry for Foreign Affairs a man who had recently rallied to the dominant ideas of the day, but who was known to have formerly held contrary opinions? In the same way, when a major-general

is to be nominated to the Ministry of War, and the name is brought forward of an officer reputed to be of the highest professional capacity, but who is said to hold political opinions different from those which are in vogue, is there not at once an outburst of menace and invective which prevents the nomination?

From the highest to the lowest, with varying degrees of intensity, the same thing occurs at every stage in the administrative organisation of the modern elective State. Very rarely does the State in its selections place itself at the purely technical point of view; it is always more or less influenced by party considerations.

Its claim is, that the man who occupies one of the posts in its employ belongs to him body and soul; it requires not only his professional labours, but his support in every possible direction: it exacts from its functionaries on all subjects a general conformity to the views which are professed for the moment by the State: it will scarcely consent to allow him his liberty of judgment in questions of letters and of fine

arts: but it intrudes itself upon his opinions in religious matters, on philosophy and on education. In large centres of population functionaries, lost in the crowd, often escape this yoke, but in small towns and in country places they are rivetted to it.[1]

[1] It is well known that in France for the last twelve years the yoke which the State forces upon its employés is of the severest description possible. In many parts the removal of small functionaries is demanded on the ground that their wives go to mass, and with a still stronger presumption of reason, if they go themselves. Almost everywhere they are forced to send their children to the public secular schools, and denied the liberty of sending them to private denominational schools. They are often forbidden to frequent such and such a club, or such and such a café, or to belong to such and such a band, or choral society.

Worse even than this, they are commanded to make an ostentatious show of delight at such and such a circumstance. Witness the following notice taken from *Le Temps* for the 12th July, 1888:—

"The Minister of Agriculture has just addressed the following circular to the various functionaries in his department—

"'Sir,—The functionaries of the various administrations which are subordinate to the Minister of Agriculture are well aware that it is their duty never to neglect any opportunity of testifying their absolute devotion to the Republic.

"'I count on their participating largely in all the manifestations whose common object is to give the greatest possible splendour to the national *fête* of the 14th July, and I beg that you will bring this letter to their notice.—Accept, etc.,

"'The Minister of Agriculture, NIETTE.'"

It may, perhaps, be admitted that this kind of usurpation by the State of the liberty of the functionary, outside the professional sphere, is carried much further to-day than it will be after a time: even this is a pure supposition; but even supposing the State, which has not only a technical end to attain, but which never entirely divests itself of its ideas and prejudices, political and other, should relax the bonds with which it ties down its *personale*, it could never secure to him the same plenitude of liberty, outside the professional sphere, which private societies allow to theirs. The latter are usually managed by business men, that is to say, by men who have naturally little inclination

This might have been written by Louis XIV. It recalls a sentence in a well-known comedy, *L'Ours et le Pacha* (The Bear and the Pacha): "The first man who will not amuse himself," said the Pacha, "I will have his head cut off." Thus the functionary, even the technical functionary, must belong alike in body, mind, and soul, to the "Government which pays him." No Joint Stock Company would ever have the audacity to assert such pretensions, or it would soon find it impossible to recruit its *personale*. The company therefore safeguards for more than does the State, the individual liberty of its employés. The ultimate result is that it is able to secure a far superior class for its *personale*.

for fanaticism, and who would not care to complicate their task by interfering with the private life and habits of their subordinates.

In the long run, since no one likes to be held in leash and to submit to degradation of this kind, it results that the *personale* of free societies is recruited from better elements, and consists of more competent men, and men better suited to their functions, than does the *personale* of the State.

Again, by no means the least of the advantages enjoyed by free societies, and one which the State can scarcely share, is the power of selecting for prominent positions the men who appear most capable, without regard to any conditions of age, rank, or diploma. The Suez Canal was only saved by M. Lavalley's removable dredging-machine; but M. Lavalley, being only a civil engineer, could never have been placed by the State at the head of a departmental service, or in charge of a harbour; and as for his patent dredging-machine, it would have taken him years and years to secure its adoption by the various councils of bridges and causeways.

But it is in times of crisis that the elasticity of free associations is thrown into strongest relief. It is then necessary to strike sail, and to curtail expenses. Joint Stock Companies can and do rise to this necessity, and they do so both rapidly and safely. But the organism of the State scarcely lends itself to reductions of this kind.

From 1882-3 to 1888, for instance, the large railway companies, disturbed by the diminution in their receipts, spent all their ingenuity in making economies, and succeeded in curtailing their expenses; one to the amount of from two to three hundred thousand pounds, another of one to two hundred thousand, altogether to the amount of £1,600,000. They did not take on a single fresh employé, they lowered mechanics to the level of stokers, and stokers to that of simple auxiliaries. The loan societies do the same; many of them suppress a large number of useless branch offices, reducing by one half the places they occupy.

Thus the waste of the force becomes less, and crises only produced for Joint Stock Companies a

salutary effect (for they *have* a salutary effect): that of bringing about a general revision of the entire administration, and the pruning away of all that is superfluous, parasitic, and morbid.

The State, especially the elective State, is absolutely precluded from acting in this way. A theory has been started with reference to the budget of the State that is incompressible. It is at any rate true that it is only with very great difficulty that it can be compressed. All those who gain a living by it, being themselves electors, employ all their electoral force to prevent this reduction and this force is often very considerable, seeing that differences may have to be paid for very heavily. Thus we find deputies, even in times of deficit, demanding an increase of salary for employés of different kinds: for signalmen, postmen, school-teachers, custom-house officers, etc. At a general meeting of shareholders, you would never find the members making proposals of this kind.

If it were proposed to suppress a costly and useless establishment, a tribunal that had no cases, a school

without pupils, a post-office without customers, the proposals would meet with the most lively opposition. This is because the State, or rather those who speak in its name, never see things from the purely technical point of view: hence its inferiority in the performance of those professional duties which may be fulfilled by it and by free societies at the same time.

It may be objected that these latter also have the defects of their qualities; being, as we have said, constituted more or less as aristocracies or as limited monarchies, they may be guilty of favouritism or of negligence.

Nepotism is certainly not foreign to free societies, but its results are generally less pernicious there than in the administration of the State. Just because there is more permanence in the administration and management of large associations of capital, because its chiefs are at once less numerous and more permanent, we do not find there these different layers of favourites superposed one upon another which we see in the administrative arrangements of the State at every change of ministry or of parliamentary direc-

tion. Nepotism is in some sort more hemmed in, because it is not constantly renewable through the rapid succession of those who are able to exercise it.

As for negligence and carelessness, they are to be found, no doubt, in Joint Stock Companies as much as elsewhere. But here we may note two important considerations. The first is that the Joint Stock Companies have to face incessant competition.

Every private enterprise which relaxes its energies —unless it constitutes a monopoly—enters at once on the highroad to ruin, a fact which very soon becomes patent both to the directors and to the public. The yearly balance-sheets, the diminution or disappearance of dividends, the fluctuating value of securities, all these are so many accurate advertisements of the state of affairs. Competition does not allow a moment's rest to most private enterprises. Bagehot, in his admirable work called "Lombard Street," has shown in the most striking manner the advantages that from certain points of view, especially in the matter of the boldness of their operations, accrue to young banking-houses relatively to larger and more

ancient houses. The warnings afforded to negligent administrators by the various symptoms we have just indicated is far more energetic and more precise than the vague embarrassment caused by the State-budget; the feeling to which it gives rise among the shareholders is very much stronger than is ever felt by the taxpayers over the State's deficits.

It may happen, however, that a private administration or management is incapable, and does not answer sufficiently to the stimulus of competition. The enterprise being ill-conducted is finally eliminated altogether. It is only a matter of time.

Absolute routine, no less than persistent wastefulness, is impossible for any length of time in a free enterprise. It means speedy death to the enterprise, and severe loss to those associated with it. But, at least, this loss can fall only upon those who have had faith in its success, and not upon the general public. Such and such a working enterprise has been started with a great deal of noisy publicity. Many clear-sighted or prudent men have considered it too risky; they have not much confidence in the management

they abstain from it. Its ultimate ruin does not touch them, and this is justice. Those who suffer from its ruin are foolish or avaricious persons who, not content with placing their money simply and securely, have cast themselves upon chance, without having sufficient discernment to judge of the merits of an affair of chance. They are to be pitied, but they have committed an imprudence.

Suppose, on the other hand, the State undertakes an extravagant scheme of public works, contrary to all good sense. I may see the folly of it, I may denounce it beforehand, countless others may do the same, but not enough to form a majority. Millions are thus wasted on unproductive works, while we, the wise, the foreseeing, we see our private budgets burdened with an increased tax of tens, hundreds, or thousands of francs yearly, according to our means, all for the sake of enterprises against which we have actively protested, knowing them to be senseless. It will be said that this is purely the result of the principle of national solidarity, but it is quite easy to avoid the severe and unjust incidence of this principle

by leaving these contested undertakings, as to which public opinion is so much divided, to the accomplishment of free enterprise.

When the State makes a mistake, it is a universal one, by which I mean that the action of the State being extended by means of legal and fiscal constraint over the whole of its territory and over all its inhabitants, nothing can escape the results of whatever mistakes it makes. The errors of companies, on the contrary, are but partial, or have only partial effects. The direct consequences are only borne by those who are associated with them; prudent and far-seeing men suffer little or nothing from them.

Consider, further, that usually there are several companies contesting the same field of action in every branch of industry, and that thus it is very rare for them all to make the same mistake at once; the very rivalry by which they are animated urges them not to pursue exactly the same methods, or to practice at the same moment the same course of procedure.

The State, on the contrary, can only act in one uniform manner, which necessarily intensifies, and

carries up to the highest pitch, the infatuations, untamed impulses, and prepossessions to which the public mind is prone.

From the preceding explanations, it would seem that we can clearly deduce the following rules:

By virtue of its superiority from the point of view of conception, invention, and aptitude for frequent modifications, or varied experiments, individual action should *à priori* be preferred to that of the State for all enterprises susceptible of remuneration.

This does not imply that the State should not control certain great departments of service, such as the post and the telegraph, which, from the point of view of civilisation generally, it is desirable should embrace the whole territory. Even here, at least with the telegraph, the monopoly of the State carries with it considerable inconvenience. The secrecy of telegrams is much less observed by the State than by private societies. Various political parties in France have quite recently made grave complaints on this score. There is absolutely no pecuniary responsibility in that country for the telegraphic administra-

tion of the State, for its errors and its defects. On every telegraphic notice you are carefully warned that by the law of the land the telegraphic administration is irresponsible. By an error of transmission it may cause the loss of many thousands or tens of thousands of francs to a private person, but it can refuse to make any kind of reparation. Decrees in the courts have recognised this immunity, which is so liable to abuse, for telegrams relative to the operations of the Bourse.

Face to face with a State administration, the private individual is constantly coming into collision with an arrogant bureaucracy, more or less irresponsible, with laws that derogate from the common right, with special and more or less partial legal jurisdiction. Thus we cannot be too chary of admitting exceptions to the rule that all services of whatever kind, which are susceptible to remuneration, should be left in the hands of individual action.

Therefore, voluntary associations, free societies, in any shape or form, by virtue of the flexibility they enjoy, of the rapidity of their successive adaptations,

of the greater play they allow to personal interest, and to innovation, of their better-defined responsibility towards their customers, and of the competition they have to face, and which acts as a stimulus to them, ought to be preferred to the State for all services which admit of being fulfilled either by the one or by the other.

Since the State is an organ of authority which uses the weapon of constraint or the threat of it, wherever equivalent results, or nearly so, can be attained by the method of liberty, this method ought to have the preference.

Even if we conceive that the State might, under certain circumstances, for the moment organise a service in a more general, perhaps even a more complete, manner than free societies, this would not be a sufficient reason for pronouncing in favour of State action. It is here, in fact, that we find the importance of rising to a synthetic view of society, instead of considering isolated parties, and examining things as it were with a microscope. Liberty, private enterprise, voluntary habits of collective action, hold, in

fact, the very germs of life and progress; and these germs have a general importance for the entire social medium which is vastly greater than the mere technical perfection of such and such a secondary detail.

We should not only be concerned to attain in the present, and as rapidly as possible, such and such material results with reference, say, to insurance, or the assistance of the poor, we have also to think of the conservation of a certain energy and spontaneity of movement among all the social forces. A man has not only the execution of his daily task to consider; he ought also to take care that all his organs, all his muscles, and all his nerves, are well at his service, and capable of acting, that none of them should go to waste, but that they are in such condition that he can resume the use of them at any moment should the necessity arise.

It is the same with human societies. It is better that life and initiative should be diffused throughout the social body than that it should be concentrated in a single organ which wields an unlimited power of constraint and an unlimited power of taxation.

Besides the method of legislative constraint and taxation, which is but another form of constraint, the State has a third method of influencing society—namely, by way of example. This method is subject to less criticism than the other two. But it is none the less insidious, or likely, if the State does not use extreme discretion in exercising it, to cause a fatal disturbance of social relations.

The force of the example set by the State increases every day. The indirect action of the State, altogether apart from its legal injunctions or from the levying of its taxes, is in some respects more felt in modern societies than it was among the ancients. Man has always been prone to imitation: the crowd keeps its eyes uplifted towards those who occupy prominent positions, and seeks to reproduce in its common everyday life some of the features of their conduct.

But it is not in this that the secret of the new power lies which the example set by the State exercises to-day. It arises from the fact that the State is the greatest consumer, the greatest executor of

works, the greatest "employer of labour" in the nation. For the requirements of national defence, that is, for those two formidable and progressive industries, the naval and military services: for the gigantic public works with which it has over-laden its trinity of powers, the central, provincial and municipal authorities: for all the services which it has more or less monopolised—the post, the telegraph, education, etc.—the State spends annually in ordinary and extraordinary (an extraordinary which is, however, permanent) from forty to fifty millions sterling, after deducting the interest on the national and the local debts. This amounts to certainly more than a tenth of the entire expenditure, both public and private, of all the citizens put together, and they are the most ostentatious forms of expenditure, and the ones that most immediately strike the eye. If, therefore, the State should make up its mind to declare that in its workshops no one should work more than eight or nine hours in the day, and if it imposed on its purveyors the observance of the same length of working-day: if by means

of simple internal regulations it were pleased to decree that certain combinations, more or less new and more or less contested, such as co-operation, or profit-sharing, should be practised by all the industrial houses with which it has relations; if it should fix for the labourers in its employ, or in that of the food purveyors to whom it gives orders, a different rate of pay from that which is in ordinary use: it is clear that this example being set by so gigantic a consumer, so preponderating a customer, will have an enormous weight with the nation at large.

The fancies and caprices of the State, even when they do not take the form of general injunctions or laws, reverberate for these reasons far and wide throughout the whole social domain. Such examples set by the State may often prove useful if they are undertaken with extreme discretion and careful consideration: but there is on the whole more likelihood of their being pernicious and disturbing.

When the State thus undertakes to furnish models to private individuals, and to encourage types of organisation which it believes to be progression, it

assumes, often all too lightly, a very grave responsibility. For, first, it does not act with the resources that are its own property, but with derived resources taken from others, so that even if at first in appearance lacking, fiscal constraint ultimately becomes a necessity. And next, the State does not enjoy entire liberty, or absolute independence of judgment, because the electoral yoke and all the mental servitude it involves weighs without a single moment's intermission constantly upon the shoulders of those who represent the Modern State. Lastly, being obliged to act always uniformly and on a large scale, it multiplies the errors that are so frequent in all human endeavours.

BOOK III.

The Essential Functions of the State: Its Mission of Security, Justice, Legislation, and General Conservation.

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CHAPTER I.

General Survey of the Functions of the State Considered with Reference to its Nature.

THE functions of the State spring from its very nature—The mission of the State is to provide for the common wants of the nation; distinction between common wants and general wants —The State is *par excellence* the determiner of judicial rights and responsibilities—The State, which alone possesses perpetuity, ought to be the defender of permanent interests against the short-sighted pursuit of present interests—The State is the natural protector of the weak: difficulties and exaggerations which are incidental to this part of its mission—The State can, moreover, lend a helping hand to the development of those individual works which constitute progressive civilisation: the perils and temptations to encroachment which may beset this faculty—Impossibility of fixing, by a theoretical rule, the limits within which this assistance of civilising agencies should

be confined : necessity of relying upon experience ; and excessive abstention on the part of the State in this matter is less harmful at our level of civilisation than an excessive intrusion.

THE State has, nevertheless, incumbent on it an enormous, even a growing task, in some senses absolute, in others relative. It is not the case, as one philosopher (M. Jules Simon) has written, that "the State ought to strive to render itself useless, and to prepare for its own decease."

Its duty is only to avoid scattering its energies and frittering away its forces, which is a very different matter. It ought also to impose upon itself rules of modesty and circumspection, as all sagacious individuals do, and this with all the more care since the mistakes of a private person weigh on scarcely any one but himself, whereas the mistakes of the State affect mainly others, that is to say, all individuals, not only *qua* members of the community, but also *qua* private persons.

The essential functions of the State spring out of its very nature. One of its characteristic features is to represent the universality of the territory and its

inhabitants, to have a thought and action which can everywhere make itself obeyed, by the aid of force if need be. From this it follows that the State is charged to provide for the common wants of the nation; for those, that is, which cannot be suitably provided for under the *régime* of private initiative, and which demand, as an essential preliminary, the absolute concurrence of all citizens.

A distinction has justly been drawn between common wants and general wants. General wants are those which exist for everyone, such as those of food, drink, and amusement; these can be perfectly well provided for by individuals, or by the free and flexible groupings which they constitute at their pleasure. Common wants are those which cannot be completely satisfied without the action of the community itself as a whole, since any individual opposition, however limited, would place an obstacle in the way of their accomplishment; such are security, preservation against certain contagious maladies, the maintenance of justice. All the apparatus of compulsion and coercion is here a *sine quâ non*. If the State did not undertake it,

it would have to be done by private persons or societies, and done empirically, partially, insufficiently.

Among the common wants of the nation I include also some degree of intervention in the preparation, if not in the execution, of public works: I refer to the exercise of the right of expropriation which can only devolve upon the State.

The general wants of the nation, which depend for their satisfaction upon private initiative, are often mistakenly confused with common wants, which are, by their very nature, dependent on the community. A mistake of this kind was made some years ago in the State of Zurich, when the people were appealed to for the constitution of a monopoly in the corn trade. The electors of Zurich, who are not always so well inspired, had the good sense to reject this socialistic proposal by a two-third majority of votes. The essence of Socialism consists in despoiling the individual of part of the functions which naturally belong to him in order to confer them upon the State.

Among all the common wants of a nation, or even of humanity generally, the next in importance after

security is justice. Security and justice are not identical. The latter is of much vaster extent than the former.

The State is essentially the determiner of judicial rights and responsibilities. This, which is necessarily incumbent upon it, is in itself an enormous task. We shall presently see in what spirit, by what method, and with how great prudence it ought to acquit itself of this task.

Another feature of the State is the possession, or, at any rate, the reputed possession of its tenure in perpetuity. It endures for a succession of centuries. It ought therefore to represent permanent interests and to safeguard them against the short-sighted pursuit of present interests. This is one of the most important functions of the State.

The individual, or rather most individuals, those who have least foresight, and who possess the least themselves, often yield to the enticements of immediate enjoyment, to the sacrifice of their future well-being. If by doing so they only injure *themselves*, the State ought not in general to interfere.

But if they are deteriorating the general conditions of national existence in the future, the State would fail to carry out its most evident mission if it stayed its hand.

From the fact that the State thus represents perpetuity, various and numerous duties devolve upon it, some active, but more consisting of supervision and control. The Modern State very rarely performs these duties satisfactorily. And to make matters worse, it has in many cases, actuated by jealousy, suppressed those great durable corporations which in former times supplemented its deficiencies.

The State is the natural guardian and protector of the weak who have no one to support them. This duty the modern society exhibits no tendency to shirk. It rather tends to exaggerate its extent. It is not bound to bring about universal happiness. But, in fact, this mission of the State is attended with very great difficulties of application. If men set about it with an excessive sentimentalism, and lose sight of what lies in the very nature of things, namely, that each one must be responsible for his own weaknesses and must suffer for them, they run a serious risk of

enervating society and rendering it less capable of progress.

The State may, lastly, in a very variable measure according to times and places, lend an accessory and secondary aid to the development of the various works which go to make up civilisation, and which emanate from individual initiative, or from free groupings of individuals.

The reader will not fail to perceive that whereas the first functions of the State which we have pointed out, *viz.*, security, and the conservation of conditions favourable to the physical medium in which a nation moves, may be laid down with much clearness and precision, the two last, on the contrary, the protection of the weak, and the accessory aid given to civilising agencies, cannot be determined with the same rigour and exactness. In these matters its sphere of influence may be variously estimated, and it is especially on this side that the State in its threefold capacity of central, provincial, and local authority is apt to make encroachments which carry it beyond its legitimate bounds.

In the absence of absolute theoretical rules, which it is impossible to formulate, it is only by such a rapid survey as we have just taken of the various services which Modern States have taken upon themselves that we can hope to determine the limits which the State ought to observe. At the level of civilisation which we have now reached, where we are more in danger of succumbing to a narrowing governmental constraint than of remaining behind-hand through individual inertia, an excessive abstention on the part of the State is attended by far less danger than an excessive intrusion and interference.

CHAPTER II.

The Service of Security.

THE collective security of the nation and the private security of the individual—The former has always been considered to be the primary function of the State—Government always presents first and foremost the appearance of a military and diplomatic apparatus—The Modern State, that is to say, the elective, ever-changing State seems in the long run to endanger the force of this military and diplomatic apparatus which, however, is as essential as ever to the life of nations—The Modern State presents but slight guarantees even for the defence of the nation—Superficial hopes of perpetual peace, either within or without: grounds for quarrel which nevertheless continue to exist—Security for individuals comes after security for the nation itself as a whole: development both in stringency and in precision of the service of internal security—Recent extensions of the service of security—Extreme delicacy of the problems they involve: precautions against epidemics, maintenance of penitentiaries and reformatory schools—The service of security tends in certain respects to relapse into primitive barbarism—The Modern State bowed down with the weight of electoral servitude is not always in a condition to guarantee absolute security of wealth, or even of person.

THE first function of the State is to guarantee security: the collective security of the nation, and

the personal security of the individual and of his rights.

On this point there is no dispute as to principle. But there is considerable difficulty of application.

As I have just said, there are two kinds of security; one against external danger, the other against internal disorder. The first of these has in all time been considered the most essential task of the State. It is in fact of paramount importance that the nation should keep its life, preserve its limits, be subject to no oppression and no tribute from abroad, and that besides this it should have sufficient confidence in the organisation of its forces not to be distracted from its daily task by any panic.

This is why the Government has always seemed to the people to be primarily a military and diplomatic apparatus.

There are some young nations, living under special social conditions which will probably not be permanent, and having no near neighbours—such as the United States of America, for instance—who seem to escape from this common destiny of nations. It

would be rash indeed to maintain that it would always be so. These countries undoubtedly enjoy for the moment, from the circumstances of their origin, the priceless advantage of being able to devote less effort, and hence less thought and ingenuity, to their army, their navy, and their diplomacy. But we must not take this exception for the rule. It would be madness on our part to attempt to copy it.[1]

Everything in the constitution of a State which endangers the cohesion of national forces, their preparedness in time of peace, their continuity of practice with respect to armament and the direction of foreign policy, must be considered as contrary to the very idea of the State, and a source of peril to the nation.

Unfortunately, the Modern State, out and out elective, without reserve and without counterpoise,

[1] We see already in recent acts of the American Government, notably in the first despatch of the new President, Mr. Harrison, a tendency to take a more prominent part in different matters which concern not only the new world but also the old. A similar inclination may be observed in the Australian Colonies. It is a mistake to suppose that these young societies have arrived at a definite state of constitution ; they are still in their infancy or youth. Their maturity will render them much more analogous to the European States.

for ever varying in its *personale*, in its institutions, its general ideas, and its technical conceptions, the State which regards itself as "eternally provisional," which gives the lie to all tradition, proclaims itself a *parvenu*, foolishly placing the date of its entry into the world as a hundred years ago instead of twenty centuries, as it could and ought to do,—such a State, precarious, vague, always changing, seems especially to endanger, if not at first, yet in the long run, the efficiency of that military and diplomatic apparatus, the weakness of which might easily deliver it over as a prey to the greed of rival nations.

Instead of changing your War Minister and your Major-General once in ten or fifteen years, have twenty in rapid succession; instead of choosing your generals for their professional knowledge, choose them for their opinions, political, religious, or philosophic; instead of considering, in the recruiting of the army, how to confer upon it the maximum of force, while causing the minimum of perturbation in the necessary civil career, make it depend on electoral grudges, and flattery of low popular prejudices; have one day for

the head of your navy a Minister who despises iron-clads, favours torpedo-boats and will cover the face of the sea with them; next day have another who despises torpedo-boats and will hear of nothing but iron-clads; suppress all tradition and all method from your foreign policy; pose, to the world without, not as a thoughtful man, circumspect but firm in his designs, but rather as a capricious and changeable woman in whom no one dare place confidence—and it is clear that you can never fulfil the function of the State from the point of view of security.[1] It is a sad avowal to make, but unfortunately a true one, that the Modern State offers but scanty guarantees

[1] The war of 1570-71 gave striking proofs of this infirmity of the Modern State from the point of view of national defence; on the one hand the adventurous march on Sedan which was only decided on from fear that the return of the army to Paris would provoke trouble there; on the other, the Revolution of the 4th of September, that is, the destruction of the Government at the very moment when it was most indispensable that the whole nation should rally round it. A people which abandons its chiefs at the very moment of disaster deprives itself of its best chances of repairing such disasters. Moreover, it is singularly difficult for a State based upon election not to be thrown into panic and complete disarray at the first serious reverse.

even for the defence of the nation. Some thinkers have made up their minds that since all States must ultimately be modernised and delivered over, bound hand and foot to the absolute electoral *régime*, the conditions will then be the same for all, and there will be no inferiority for any.[1]

This reasoning is only half true. We should still have to take into account national temperaments, what is called for instance the heaviness of some—but is in reality only circumspection, patience, perseverance, the spirit of logical consistency—such a nation would perhaps use the purely elective *régime* and yet render it less unsettled and less variable. Moreover it has never been light-minded men or peoples who have made the world their own; but those who know

[1] The Modern State in which the elective principle has hardly any counterpoise develops to the most exuberant proportions the abuses of patronage, as regards the army, in the matter of leave, of permits, of exemptions from service, and so on. The technical chiefs have the greatest difficulty in resisting the torrent of requests from senators, deputies, mayors, &c., by which they are overwhelmed. Ministers, having neither stability nor independence, are generally more or less forced to lend themselves to this progressive disorganisation.

how to quietly conceive and execute great and far-reaching designs.

Others find their consolation in the hope that the conditions of humanity will suddenly change. We know that it has been prone to warfare during the forty or fifty centuries of its conscious existence; yet, as if the laws of habit did not exist, it is all in a moment to turn pacific for ever. The old saying *Homo homini lupus* is to be transformed suddenly and without transition into *Homo homini ovis.*

This sapient foresight looks forward, one must suppose, into the future over a whole succession of centuries. For whatever anyone may say, occasions of quarrel do still survive among modern nations, frontier questions, half-understood trade-disputes, questions of the infiltration of strangers from one country into another, and of the regulations under which they are placed, questions of unequal density of population and of differences of wealth in different territories.[1]

[1] These two last questions may in the long run become exceedingly acute. Wealthy nations claim the right to harass and

Then, even within the State, the growing appetite of the various social classes, their ambitions for a broad and leisured life, the jealousies that power excites, here are sufficient reasons it would seem for not regarding as superannuated the military apparatus whose maintenance and reinforcement have long been considered as the principal function of the State.

Security for individuals and for their rights stands only in the second rank, after security for the nation itself. This service has attained a singular development among modern nations. It is of infinitely wider extent than one would at first sight suppose. It is constantly growing in intensity and in precision: and moreover, it is susceptible of infinite variety.

obstruct immigration which comes to them from poor countries, to levy taxes on strangers, to subject them to more or less vexatious formalities. Herein lies a serious peril, which will take shape especially on the day when, the new world being more densely populated, a larger proportion of the surplus of prolific countries will pass over to rich countries where the population is less dense. Any attempt to hinder this infiltration would excite the danger of a renewal of the ancient migrations consisting of large masses of people bearing arms. And the same, if a rich country is unable by good treatment and naturalisation to assimilate the poor foreigners whom it receives into its midst. Motives for quarrels abound in this direction.

In the matter of intensity the following figures will serve to show the diversity in the efforts made at different times. In the middle of the sixteenth century, in 1539, the Watch in Paris consisted of one company, comprising twenty mounted sergeants, and forty on foot. Under Henry II., in 1559, it had somewhat developed, and it numbered 240 men, 32 of them mounted. Under Colbert, it consisted of 120 horse and 160 foot. Under Louis XV., in 1771, the number of the former rose to 170, and of the latter to 870. To-day, according to the accounts of the city of Paris, the various services of municipal security occupy more than 10,000 men, as protectors of the peace, municipal guards, fire-men, etc. This is eleven times the number that was employed at the end of the eighteenth century: the population, it is true, having increased rather more than fourfold during that period.

The economic law that with the growth of population every kind of service becomes less costly here fails to apply. It has been kept in check by the operation of two other laws: one, that the larger any

human agglomeration becomes, the greater are the temptations to crimes and misdemeanours, and the greater the facilities for accomplishing them: the other, that the more a nation becomes civilised and polished, the more exacting it becomes in its refinements, growing irritable at every annoyance, every obstacle, every hindrance, which primitive people would endure with equanimity.

The service of security has also increased greatly in variety. It extends to a number of objects besides those of the immediate protection of person and property. It often takes preventive measures, as when it endeavours to avert such common dangers as epidemics: it takes precautions of all kinds. A great deal might be said on this subject, some nations tending to err on the side of negligence, some of excessive interference, by regulations based on incomplete observations, or on too hasty generalisation. But this would land us in an infinite mass of detail. We shall find occasion later on to revert to some of the mistakes or some of the abuses of the State in reference to this, both as central and as municipal

authority. The function of general security which is laid upon the State involves in its application problems whose solution is a singularly delicate and difficult matter: such as the penitentiary regulations, or the transportation of criminals.

Since we have abandoned the practical savagery of the ancient civilisations which went to work in the shortest manner, and either killed their criminals or shut them up without taking any further trouble about them, the State finds itself face to face with the most complex and the most embarrassing questions. In Morocco even now, and in most Mussulman countries, criminals, if they are not beheaded, are thrown into prison, and in the pestilent gaols where they are confined the State does not even undertake to nourish them, this being left to the care of their family: in the same country also and in others far distant, such as China, they are often left at liberty after having been deprived of a limb, or they are laden with fetters or put in a wooden collar, and so left to beg, being incapable of doing harm, but also unable to work.

Our civilised societies, moved by a high sense of humanity, seek to treat criminals charitably, to provide suitably for their wants, to give them work, even to improve them; and in doing so, they assume, and rightly, for it is to the honour of our civilisation, a most delicate task. Yet they give the matter for the most part but a divided attention, being absorbed but too frequently in other matters which are really less within their competence.

It is evident, therefore, how greatly the service of security, which is incumbent on the State, has developed, not only in the course of ten or twenty centuries, but even within the last fifty years. Taking as our type the nation which has long enjoyed the reputation of being the most economical of any, I mean Great Britain, we find there that the expenses of the magistracy, police, and prisons (law and justice) took from the central Government, in 1817, only £200,000, and in 1837 not more than £340,000; but, in 1857, we find them suddenly rising to £2,900,000, then in 1867 to £3,200,000,

in 1877 to £4,900,000, and finally in round numbers to £8,000,000 in 1887.

There are some indications, moreover, which would lead us to suppose that this service of security which has gained so much in extent and in intensity among modern nations, is, in some respects, in a diseased condition, and subject to attacks which might come to be serious; that we are, in fact, in some sense in danger of reverting to primitive barbarism.

What, for instance, would Richelieu say, who so sternly proscribed duels, if coming to life again he could contemplate his successor, the actual first Minister, and ex-Minister of War, in the act of cutting his own throat, under the complaisant eye of the Chief Director of Public Security, who is keeping a watch to avoid the police?

What, again, would our ancient jurisconsults say if they could witness all these extraordinary acquittals of people who kill or wound each other under the pretext that in the capacity of husbands, lovers, or rivals, or even having some other motive

of spite or hatred, their quarrels elude the justice of men?

What would they think of the theory that any guilty person, if he be a sick man, has a right to interest and care, and not to punishment?

What idea would our ancient administrators form of our progress if they could see in every crowd and every street-brawl revolvers brought out of the pocket, brandished threateningly, or even used, thus clearly evidencing the fact that whole classes of our citizens are secretly armed, which is, perhaps, worse than being so openly? Our civilisation, which has much cause for pride, has much also for modesty: civilised man, even in the West, on the very frequent occasions when he forgets himself, shows unmistakable traces of the savage.

Passing from town to country, we find that marauding goes on with impunity if it is not connived at, almost tolerated even, showing in any case that from the point of view of purely material security, we are far from having reached perfection.

Regarded from this standpoint, the Modern State,

fast bound in electoral bondage, bowed down beneath the perpetual electoral yoke, enjoys but a moderate degree of liberty and freedom of movement. This is, however, a secondary evil, and one to which, however vexatious, we can afford to resign ourselves, for it does not very deeply affect the social body.

CHAPTER III.

The State the Organ of Right—Character and Limits of this Function.

THE State is *par excellence* the determiner of judicial rights and responsibilities—Mistakes of most politicians and writers as to the nature of this mission—The State does not create Right—The ancient conception of law: a durable fixed rule, in contra-distinction to an arbitrary rule—The theory of Bossuet and Féuelon less false than that of Bentham—The law creates no right: it recognises, defines, and sanctions right—Right is of spontaneous origin, like language and like barter—Custom precedes written right—Even when written, right is always in a condition of moment, jurisprudence being ever newly inspired by new usages and new necessities—The legislator comes last to sanction and specify—Genesis of certain rights: the right of property—How property in the house and the enclosure preceded property in arable land—How the inequality of personal wealth has been the origin of the inequality of funded property—The obscure date of the transformation of collective into private property proves that it was not law which created the right of property—Everywhere the fact, instinctive and unconscious, has preceded the law—Instance of literary and artistic property and of property in inventions—Proof that these rights existed before all law, only their existence was trammelled—Many

natural rights, such as that of lending at interest, have had to struggle against the legislator for a succession of centuries, and have ultimately triumphed over his obstinate resistance —Necessity of bringing the legislator into a more modest frame of mind—Montesquieu's admirable definition of law—Refutation of objections on this score — There is an irony in the nature of things which mocks at the legislator—Laws of succession, of taxation, of maximum rates, of interest and price—Presumption of the Modern State and of permanent Parliaments—Social plasticity attenuates the effects of legislative fancies.

ERRORS concerning the mission of the State and the spirit in which it ought to set about fulfilling this mission may have the very gravest results. Justice is intimately connected with security, but is distinct from it.

The State, as we have said, is *par excellence* the determiner of judicial rights and responsibilities: this is the highest and most intellectual function that has fallen to its share.

It is very important that we should be quite clear as to the character and limits of this mission. Most writers conceive of it quite wrongly: most States carry it into execution more strongly still.

The question is, What does the State really do

when it enacts a law regulating the relations of civil or commercial life? Does it act as an omnipotent infallible being, creating a right? Certain theologians teach that evil is what is contrary to the will of God. Is injustice simply what is contrary to the will of the State, and justice all that is in conformity to this will? This style of reasoning is contrary to the nature of things, to the nature of man, to all the historic development of human societies.

It is very necessary to study by which means right was constituted.

Writers both ancient and modern, down to the end of the seventeenth century, conceived of law mainly as a fixed rule, if not immutable, at least durable, forming the opposite of what is arbitrary. Thus Bossuet described a State "where all are subject to the law, and to nothing but the law, where the law is more powerful than men." Féuelon's "Salente" abounds in expressions of reverence for the laws thus conceived of, which dominate kings as well as peoples. Thanks to these permanent rules, citizens

or subjects could enjoy certainty in their sphere of action. Whatever fancies might seize their sovereigns or their administrators, they kept sight of certain rights which must be preserved to them, certain categories of acts which it was impossible to prohibit.

No doubt, this conception of law is wanting in precision and clearness. It is silent as to the question of its origin. But for all that, it contains much more truth than the conception of many modern writers and theorists, Bentham among the rest. Did not Bentham write that Government fulfilled its part "in creating rights which it confers on individuals, rights of security for the person, of protection for their honour, rights of property, etc."? Even the views of Bossuet and Féuelon, however incomplete, were worth a thousand times more than Bentham's empiricism. Many jurisconsults go on repeating to this day the absurdity that law creates property. They are setting a monstrous kind of divine right of the people, or rather of the variable majority of the people, which is far more dangerous, because its pre-

tentions are more absolute, than the ancient divine right of kings.

A careful analysis will show that law creates no right. Law recognises right, it defines it, it sanctions it, it gives it a more precise content; above all, it regulates its exercise, and its relation to other rights.

Tin Aufang War die That! says Faust in his monologue. We find at the beginning an act, an instinctive act, a repetition of more or less uniform acts, which constitutes a series, as it develops and becomes more precise. These acts are only renewed, perpetuated, extended, if they prove to be in harmony with the necessities of human life, individual and social.

Right is of spontaneous growth, from the development of successive embryos, just as much as was language, or barter.

Language, even syntax, preceded the grammarians; barter, in all its applications, came before the economists. If humanity had to await for its development, the vacillating, uncertain, contradictory

decisions of the reason, once arrived at a reasoning level, it would hardly, even after all these centuries, have risen above the level of animalism.

Custom, though it does not create right, is the first to give it recognition and sanction. Everywhere unwritten and unformulated right has preceded written right. The first legislators were merely in some sort scribes who collected and set in order the customs which had gradually grown out of popular sentiment, or rather out of the necessity of things. They always refer back to the *mores majorum*. The idea of innovating does not enter their minds. The famous word *Reform*, which turns so many heads now-a-days, is unknown to them.

Once fixed by writing, in a clear and defined text, right is nevertheless not stationary, but always moving and developing. But here again, a searching analysis shows that initiative does not come from the legislator. We find everywhere a species of prætorian right; jurisprudence, gradually superimposing itself on the written right, alters, corrects, and amplifies it. This, which I have called prætorian

right, is the gradual application of the rules which have been rendered necessary by transformations of existing conditions: these applications being called forth by certain particular cases, which are either in themselves new, or are produced by modifications in the circumstances of the social medium. Even this prætorian right scarcely does more than copy pre-established customs and usages; the legislator comes in as the final stage to give it the supreme sanction of law.

Examine, if you will, the genesis of some of our rights, and you will see how false is the notion that they are created by law. It has been said, for instance, that the right of property was the creation of law. There was never a more preposterous theory, or one more at variance with history.

In my work on *Collectivism* I have shown through how many struggles, and with how much hesitation and difficulty, the right of private property emerged out of collective property.[1] From the time when

[1] In my work entitled *Collectivism, A Critical Examination of the New Socialism*, I have given a lengthened explanation of

any people passes out from the pastoral into the agricultural stage, they begin to have fixed dwellings. Every household owns its hut or house, and often a small enclosure adjacent to it. This primitive form of property is suggested to man by his own nature, and carries with it for him its own warrant and recommendation. For, by nature, he abhors promiscuity.

Outside this primitive house and its enclosure all the remaining territory is common to all. But it consists of two distinct portions: that which surrounds the village and which is set aside for cultivation, and the more distant portion which remains uncultivated, or is only used for pasture.

Of these two portions the first is certainly collective property, but it is subject to division. It is portioned out by lots among the inhabitants at first,

the origin and constitution of property among different peoples. In my *Short Sketch of Political Economy*, I have further shown how new rights of property spring up, as it were, naturally, vested in immaterial things, such as trade-marks, literary productions, etc.; and this the more constantly in proportion as civilisation rises to higher levels of perfection.

once a year, but subsequently at longer and longer intervals. The tendency to give a longer and longer duration to the precarious tenure of these lots, by placing the divisions at longer intervals apart, arises from the necessary endeavour after improved cultivation. It is impossible, within the space of one year, to give much dressing to the ground; in two years more can be done in this way, and still more in three or four. This is how it comes to pass that in the Russian *mir* the division is often not made more frequently than every eighteen years. All the portions are at first equal, and drawn by lot. But inequalities in the means of cultivation among the various inhabitants soon make themselves felt. Here is a man eager and strenuous in labour, clever and foreseeing in mind; he naturally reaps good harvests, lays by reserves of corn and forage, keeps and feeds his animals well. Here is another, who is indolent, and lives only from day to day; he soon has not even corn for sowing, his beasts die, or otherwise disappear, he finds himself without the means of cultivation. Of what use is his share to him if he cannot cultivate

it? He finds himself compelled to hand over the enjoyment of it to his neighbour, and, further, to deliver up his own person for hire. Later on, these arrangements receive the sanction of custom, and it is decided that those who have not sufficient means of cultivation are not to be admitted to a share in the division.

It is thus that inequality of personal property, arising from labour and saving, determines, in the long run, inequality of real property. Gradually there arise such differences as constitute what the peasants of the Russian *mir* term "strong families" and "weak families." The strong families go on increasing their share, the weak ultimately find themselves deprived of it altogether; but they have only been disinherited because they have proved themselves incapable of turning to account their share in the collective heritage. These facts take many generations for their accomplishment, their consolidation, and their generalisation. The distribution is less and less frequently carried out, and operates among a more and more restricted number of families;

eventually it disappears altogether, leaving some taxes or dues by way of compensation.

The date of these transformations still remains in obscurity, precisely because, as a rule, they have never found a place in any written legal text.

In the other portions of the collective domain, which is that at some distance removed from the village, private property is constituted by analogous processes. A few enterprising men take some portion of this surplus territory—none saying them nay, since it is to no one's interest to oppose them—they work it, fertilize it, enclose it. Their example is followed by others. Everyone profits by it, even these weak families of which I spoke, who, having forfeited their own instruments of labour, are glad to let out their services on hire, and who obtain a more assured and more considerable wage in proportion as production increases.

We have unmistakable warrant for assigning this genesis to private property, not only in the evidence afforded by careful study of the old texts and charters of the Middle Ages, but still more in the

consideration of what has passed under the very eye of England in many districts of India, and of the actual process of evolution going on to-day in the Russian *mir* and the Javanese *dessa* (or collective system).

Everywhere the act, instinctive, unconscious, gradually generalised, precedes the law.

Other instances may be multiplied without difficulty. Literary or artistic property, and property in inventions, must surely, according to many superficial observers, be the absolute creations of law, for without it they would never have existed. But this is not so; they would all assuredly have come into existence, because they are all in harmony with the nature of things; only, their exercise would have been very much hampered.

An author is free to dispose of his works and has a chance of, at any rate, some degree of success in doing so, even if the law has not stepped in to decree that he may sell to whomsoever he pleases. In the last century and in the century before that, an author of repute could generally sell his manuscripts to a

library for some £50 or £100, or more. The library would print it quietly, and striking off a number of copies, would lay it before the public. Other libraries, of course, could then copy it without incurring any penalty from the law. But the original holder of the manuscript had an advantage over all the rest, an advantage of several months (for it takes time to publish a book), and further, the later comers would, no doubt, hesitate before going to any great expense, except in the case of particularly choice books; for the first competitor and the one who had treated with the author would have exhausted the first run on the book, which is always the most considerable.

Literary property did, therefore, exist before any law; only, without the aid of law this right is hampered in its exercise, and is only partially productive.

Property in inventions has followed the same course; it held good for a certain duration of time at anyrate, before any law was made in reference to it, from the nature of things and in the sentiments of the people. M. de Molinari, who has written an account

of his travels in Canada, tells us of a singular antecedent to property in inventions. It seems that there when a savage finds a burrow he sets a certain mark about it, by virtue of which no one can dispute his exclusive right to take whatever animals he may find there.

The possessor of a mechanical or chemical invention may keep the secret for some time and apply it in silence, keeping a veil of mystery around it. This naturally hampers him somewhat, but he may, nevertheless, draw a considerable profit from it; sometimes, indeed, a very considerable one. This right has devolved upon him naturally: but while it is only this, its exercise is precarious and liable to disturbance, just as much as the right of him that has sown to reap would be precarious, if there were no recognised force to keep off marauders.

Was it necessary for the law to proclaim the good-will of commercial businesses to be saleable before the right or even the practice of selling such good-wills could exist? By no means: thousands of transactions of this nature were carried through before the legislator ever took thought about the matter.

Nowadays, even a beggar sells or lets out his place, if it is a good one, and he means to give up occupying it. No tribunal has ever conferred this power on him. But the right of the first occupier is so general, and so strongly commends itself to human nature and to the nature of things generally, as well as being essential to social peace, that we find altogether unexpected applications of it cropping up in the absence of any legal sanction.

Are we to suppose again that it is the law which has created trade-marks and the prestige which attaches to them? Not at all. Simply manufacturers were forced in order to avoid limitations to multiply and modify their conventional signs in order to keep up an understanding with their principal customers.

Is it possible to believe that the law created the practice of lending at interest, when three-fourths of our legislators have shown themselves eager to proscribe and mutilate it? It has survived all attempts at proscription, because it adapts itself to the requirements of human development.

We find the same to be the case with all rights. The legislator, by nature a vain and presumptuous person, must be restored to a sense of modesty. He does not create right: he only regulates the exercise thereof. He has absolutely no creative power. He only wields a regulating force, and this unfortunately is often transformed in his reckless and unskilled hands into an immense power of perturbation. Absolute faith in the power of reason is one of the most fatal of the many superstitions which the eighteenth century has bequeathed to us.

This same century it was, however, which discovered the true definition of law. It is in the form of a magisterial dictum, and admirably represents the incarnation of all legislative wisdom. "Laws, in the most extended signification of the word, are the necessary relations which spring out of the nature of things."

It has surprised me to find that so judicious and penetrating a writer as M. Sorel, in his work on Montesquieu, misses the depth, the exactness, and I may add the clearness, of this statement. He considers

this formula "the vaguest and most general of any." It is the most general, undoubtedly, but the vaguest—no! I should be rather inclined to term it the most precise. "It is," says M. Sorel, "an algebraical formula and has only the most distant and indefinite connection with laws political and civil." My opinion is quite other than this.

Here I am considering only civil laws, but I find that Montesquieu's formula is marvellously adapted to them. For instance, the legislator carries on for whole centuries and over whole continents an incessant struggle against interest on capital: eventually not interest, but the legislator, is forced to capitulate.

In the same way both in France and England, not only during the Revolution, but before it in the eighteenth century, laws were made on orders issued to fix the maximum prices for merchandise, and the maximum terms for hire (many such decrees by the Parliament of Paris are still extant), and here again the nature of things does violence to the legislator. A Government decree of 1848, which has never yet been rescinded, prohibited sweating, that is, petty

enterprises farmed out by a general middleman. Sweating has changed its guise somewhat, but it still continues to exist.

In France to-day the suppression of several degrees of succession is talked of, and the measure is not unlikely to be voted in the Chamber. Some ingenuous Minister of Finance will probably inscribe on the budget a certain number of millions as the probable product of the projected confiscation. But the right of succession is inherent in the very nature of man; it is necessary to ensure the personal impress which he aims at having and at leaving behind him on things in general, and to ratify those links of affection which are usually created by community of ancestors and of name, and by the persistence of relationships. The right of bequest will baffle the projects of any Minister; instead of tens of millions, the unreflecting voracity of the State will gain only at the most a few tens of thousands of francs.[1]

[1] In France it has often been proposed to suppress a certain number of degrees of succession in inheritance *ab intestat.* Since 1880, several deputies have made proposals of this kind; and in 1888, M. Peytral, Minister of Finance, prepared a draft

There are certain kinds of taxes which the legislator tries to make use of as instruments for furthering equality of conditions. But the phenomenon of reper-

of a law on this subject. It was supposed that by this means the State would reap an annual increase of revenue amounting, some said to 30, others to from 50 to 60 millions. If such measures as these should ever be voted in the Chamber they will result in prompt and bitter disappointment.

Certain legislatures, the French among the number, make the limitation at the 12th degree, for successions *ab intestat*, which is very distant, for cousins german are only of the 4th degree. But they have done this not because they admit that a succession which devolves upon the State can in any case be better than succession which devolves upon private persons, but for a purely practical reason, and one which grows out of the conditions of modern life. They believed that in our restless societies, where constant displacements take place, where families scarcely ever remain rooted to their original soil, relationships beyond the 12th degree become usually very uncertain, and are liable to be very much contested, and that, this being the case, successions where no will can be proved are only on the whole productive of inextricable litigation which absorbs a vast amount of activity. It is this reason and this only which lies at the base of such legislation. It amounts practically to a caution addressed by the Code to all persons who have only very distant relations to make a will if they do not wish their inheritance to be devoured by the agents of the law.

It is not from any motive of personal gain that the State has fixed this distant limit at the 12th degree: as a matter of fact this limitation profits it very little. But a very insignificant portion of successions escheat to the State. In 1886 they amounted to £102,837, out of a budget of more than

cussion or diffusion of taxes comes in to baffle his efforts. In the nature of things there is an irony which laughs at the legislator and takes its revenge for his attacks.

£120,000,000. This sum of £102,837 was, moreover, made up of a considerable number of very small sums. A mere five or six thousand small sums yearly of a few pounds each would be enough to make up this comparatively insignificant total. Thus we see published in the *Journal Officiel* every quarter or every half-year the amount of Savings Bank deposits which have been abandoned. These are very numerous, for the most part only sums of a few pence or even a few shillings, very few amounting to £2 or upwards. There are many men whose lives are full of movement, and who, changing their place of abode and their trade, and passing through various vicissitudes, forget to draw the few shillings, or even sometimes the few pence which they have left in a distant Savings Bank. This is how so many small sums are forfeited. In the case of any large sum either deposited in a Savings Bank or in public securities or bills, a dying man would remember it, unless, of course, death seized him suddenly in the fulness of health and vigour, and he would prefer to bequeath his possessions either to a distant relative, a friend, or a servant, or to works of beneficence or charity. For the owners of private property have horror of the impersonal, they hate to lose their own in it and make every possible effort to avoid doing so—and the State, this great modern State with its 40, 60, 100 or even 300 millions of souls, as the case may be, is the impersonal *par excellence*.

The very small proportion which the amount escheating to the State bears to the successions which devolve upon strangers, may be easily verified by a small calculation. The dates are given us in the *Bulletin de Statistique et de Législation comparée*

Unfortunately, the Modern State, in the presumption engendered by electoral triumph, and the consciousness of representing a newly formed majority, and with the haste which inevitably characterises men who have a precarious tenure of power, is too often prone to ignore both the nature of things and the nature of men. Under the title of permanent Parlia-

du Ministèré des Finances (vol. ii., 1887, pp. 146-147, and 158-159). In 1886 the sum of inheritances, devolving upon persons not related to the testator, rose to £8,800,842, while the successions escheating to the State amounted only to £102,837, or about 1·15 per cent. of the former total. In the same year, 1886, successions to relatives beyond the 4th degree and up to the 12th (note that it is not proposed to do more than suppress the right of succession beyond the 6th degree), amounted to no more than £4,109,457. Applying to this order of succession the same proportion of escheats as we found to the successions devolving on strangers, we see that, by the suppression of the right of inheritance *ab intestat*, the State would only be enriched by the amount of £46,000 a year. The suppression of several degrees of succession would be a brutal, but, at the same time, an ingenious undertaking. It is all very well to be ready to confiscate wealth, but there still remains to make the confiscation inevitable. Moreover, there is always the loophole of the will by which private fortunes may escape the State, and even if bequests were forbidden, the State might still be kept out of the inheritances by the sinking of funds in an annuity.

The following list shows, for the year 1886, in France, how succession-values were distributed, and the fiscal duties by which they were encumbered.

ments it has established lasting instruments of legislation, working like the incessant looms of the spinning industry. By this means it wields an immense force

Degrees of Relationship.	Rates of taxation.	Succession-Values.	Amounts taken by the State in taxation.
1. In the direct line	1·20%	£143,329,684	£1,791,673
2. Between husband and wife	3·75 ,,	20,828,282	781,061
3. In a collateral line: between brothers and sisters, uncles and aunts, nephews and nieces	8·125 ,,	32,570,268	2,646,342
4. Between great-uncles and great-aunts, great-nephews and great-nieces, and cousins german	8·75 ,,	5,131,032	448,965
5. Between relations from the 4th to the 12th degree	10·75 ,,	4,109,437	410,945
6. Between unrelated persons	11·25 ,,	8,800,842	990,095
	Totals,	£214,769,645	£7,069,081

From all this it appears that if the State wishes to suppress degrees of succession it will gain nothing thereby unless it suppresses also the right of bequest. Even then the sinking of funds in annuities, which it cannot do away with, would compete with it, and eventually reduce its shares to a mere nothing.

of perturbation. Happily, the obstruction of parliamentary oppositions often arrests the rapid progress of this arrogant machine. Happily, also, social plasticity, finding itself more or less hampered, proceeds to develop combinations by which the effects of legislative caprices are suppressed or minimised.

CHAPTER IV.

Function of General Conservation.

As the representative of social permanence the State should watch over and preserve the general conditions of existence for its people—Conservation of climate, of arable land, of natural riches of a kind which does not reproduce itself—The State may receive assistance in this task from private persons and associations, but it must not altogether abstain from performing it—Marvels accomplished by Holland in its struggles with the sea—Instances in France both of admirable theoretical treatises and fine practical works connected with this task of general conservation—The science of Hydraulics is in its infancy among European peoples—The State may play a considerable part in the conservation or the repeopling of forests—In this direction, its intervention is much more necessary in southern than in northern countries, and much more necessary in democratic than in aristocratic States—Inferiority of France, relatively to Germany, in the maintenance of domanial forests—The State must take care to enforce the laws which relate to fishing and the chase, and to prevent the destructive exploitation of natural wealth which is not of a self-productive kind—Incompetency of the Modern State to fulfil this important task.

I COME now to the third function of the State, which is one of the most important and at the same

time one of the least efficiently performed. I shall only indicate its main outlines.

The State being the representative of social permanence, it ought to see that the general conditions of existence do not deteriorate among its people; this is the minimum which can be asked of it; what would be better still would be that it should improve them.

Among these general conditions of existence I include both the moral and the physical conditions of the people. For the moment I shall only speak of the latter, which are of the two the less open to dispute.

These consist first in maintaining or improving, in so far as man can contrive to maintain or improve, the climatic conditions of a country, in preserving arable land, and in watching over such natural wealth as is not self-productive. In the accomplishment of this multiform task, which has been of all others the most neglected in the past, the State has to contend now against certain natural forces which are far from being easy to control, and now against

the greed or short-sighted recklessness of the current generation.

To preserve the soil intact against those natural scourges which continually threaten it; for instance, in European countries the invasions of the sea along the coast, devastations inland caused by floods and the ravages of water-courses, the danger of drought, which may be averted by the maintenance of forests, is a task for which the State is not without qualifications, although it does not devolve solely upon it. Private persons and associations may come to the aid of the State in these matters; but this must not incline it to withdraw from them altogether.

Holland has accomplished marvels in its struggle with the sea. There all the elements which go to make up the nation contributed to it. M. de Laveleye, who is generally an advocate of State interference, tells us in his work on *Agriculture in Belgium* of the many agricultural triumphs won by enterprising individuals over the floods in Flanders and the Netherlands. The rich lands which are called *polders* are the triumphant results of private in-

dustry. But these would have been impossible but for the previous collaboration of free syndicates of proprietors, or more frequently of whole communes or provinces, in the construction of dykes and the management of works on a large scale. The Ministry of Rivers and Waters is one of the most important ministerial departments of Holland.

The prospect of immediate or ultimate profit is not always sufficient to spur individuals to action in these matters. Besides, the work to be of any real good must often extend over a considerable area. This necessitates the co-operation and mutual understanding not only of most of the dwellers in the district, but also of all or almost all the owners of the soil. If this understanding fails, the intervention of the State is justified, whether it be in an absolute or in a modified degree. France has reason to be proud of several great undertakings of this kind. Towards the end of the eighteenth century, Brémontier, an Inspector-General of bridges and highways, succeeded in fixing the dunes or sandhills of the Gulf of Gascony between the Gironde and the Adour, and

in planting them with beautiful pine forests, thus preserving the adjacent villages and cultivated land. In the course of this century another engineer belonging to the same department, M. Chambrelent, having first facilitated the drainage of the Landes, was enabled to render the country more healthy by new plantations, so that whole tracts of land were reclaimed from the marshes and rendered productive for the nation. There are other instances which might be quoted both of theoretical studies and of practical works undertaken by State functionaries in the interests of general conservation. Among the former we may notice a very fine book on torrents by M. Surrel, and his demand for the replantation of the Alps. His appeal induced the Government to pass laws and to take steps, which, however, are not yet completed, for the replanting of mountains and the regulating of waterways.

We may safely affirm that the practical science of Hydraulics is still in its infancy among the peoples of Europe. Water-courses ought to be regulated, banked up, and so on. They have been considered

hitherto chiefly from the point of view of the transport of merchandise. But there are other interests to be considered: such are irrigation, the regularity of the supply, the creation of reservoirs and of motive power. By a system of wisely-conducted works we might at one stroke redeem much land and secure an efficient water-supply.

The draining and drying up of marshes is another of the tasks which might occupy the State: either in the sense of keeping a supervision over its performance by contract, or of itself executing it. It is not always impossible for private individuals to undertake this task. It is well known that only lately in Italy, Prince Torlonia drained the Lake Fucino, very likely for the sake of ostentation, or for that kind of aristocratic, almost royal *sport* to which I referred in a preceding chapter. In Greece, Lake Copaïs was drained by a French Company. In Algeria the great Mining Company of Mokta-el-Hadid has undertaken the draining of Lake Fezzara, near Bône. It is therefore not only the State which can execute these great undertakings: but when private initiative is

lacking, or where public resources abound, the State ought not to stand aloof from them.

Next to rivers come forests: here again the State may play an important part.

Wherever man takes up his abode, whether he be in the pastoral stage, or in the first stage of agricultural development, he destroys the woods and forests: he does this primarily for the sake of security, next on grounds of health, finally from motives of greed, to extend the pastures of his flocks or to fertilise with wood-ashes soil which he cannot otherwise manure. This destruction goes on for some time without causing more than a very slight inconvenience, because, since almost the entire country is covered with forests, their extent may be largely reduced without any disturbance to the water-system. But there comes a day when it is needful to preserve, or even to restore, what clumps of trees still remain, especially on sloping grounds or table-lands. The main object of this is not to secure wood for maritime purposes, nor yet to prevent wood from becoming dear, nor to give the State, and therefore

indirectly everybody, a share in the rise of wood: these are all merely secondary considerations. The object is primarily to maintain the water-system of the country and the conditions of climate generally.

The intervention of the State is here justified as the representative of permanent interests. But the extent to which it is desirable or useful varies in different countries and according to circumstances. It is more essential in southern than in temperate regions, and more necessary in democratic than in aristocratic countries, or countries which possess strong and numerous corporate bodies.

In almost all countries the peasant has no love for forests. In the south he dislikes trees; for he has but little notion of the indirect utility of things. Large and moderate-sized properties, those parks which the heedless spirit of democracy so often attacks, render, from this point of view, real service to the community. They form reserves of trees, of greensward, of moisture, and of birds.

In England, thanks to the climate, to the numerous gigantic properties, and to the sporting tastes of the

people, the State has no need to intervene in the regulation of rivers and forests. England possesses in some sort a scattered forest system diffused throughout the whole of its territory. The same is true of Belgium. But it is not so in France, Spain, or Italy, least of all in Africa.

State-intervention in the domain of forestry is based on entirely different principles from its intervention in the regular course of agricultural production. With this it has nothing or almost nothing to do. In forestry the part it plays is justified by purely general considerations. It is not with the object of increasing present production or of introducing new methods, or of directing the cultivator of the soil. The State would have no qualifications for doing this. It is simply for the sake of guarding permanent and universal interests as against immediate and local interests. The destruction of the Alpine forests, for instance, has been pernicious to the whole of Provence.

In former times the action of the State in this matter was by no means so necessary. The forests

were much more numerous and much better kept: partly by the agency of corporations, especially religious corporations, which have more regard for permanence, and make a study of detachment from the things of the present, and partly from the prepossessions of the nobility who preserved forests for the purposes of the chase.

Nowadays, a very large part of this duty devolves upon the State, that is, upon the central State—not the commune, which is too often both ignorant and short-sighted. This is the case not in France only, but also in Canada, Australia, and Brazil.

If the State in France wishes to play its part as the representative of national permanence and to render genuine service to succeeding generations, it must set to work to parcel out its 394,400 acres of domanial forest, of which a great deal, especially in the neighbourhood of Chambéry, Ajacci, and Gap, consists of mere brushwood, estimated at an average value of from £3 to £5 an acre: it must re-embellish the mountain-sides with trees; it must force the communes by means of an ever-watchful oversight to

reconstitute the 729,200 acres of timber in their possession, and to transform into forests a part of its 1,078,400 acres of uncultivated commons, pasture lands, and moorlands, without detriment to the acres of cultivated common land, which it might justly leave in their present condition.[1] Similarly the State

[1] The States of Germany are much more anxious than France for the preservation of their forests. As against the 400,000 acres of our domanial forests and the 720,000 acres of smaller communal wood, Germany, whose territory is not more than 4 per cent. larger than that of France, can show 1,772,400 acres of forest belonging to the States, 926,000 of communal woods, and 68,000 acres belonging to churches or corporations, besides 2,383,600 acres which are the property of private persons. (See my work *Treatise on the Science of Finance*, 4th edition, vol. i., p. 48.)

France and Germany, moreover, have long regarded the question of domanial forests from an entirely different point of view. In France they are considered almost entirely in the light of a source of revenue. Up till quite recent times very little care was taken to improve them or to replant the clearings which, in the south especially, are so numerous. Although at the end of the second empire laws for replantation were voted, the credit affected by these works in 1876 amounted only to the insignificant sum of £47,320, and this includes subsidies to individuals, so that very little remains for works undertaken by the State. In 1879, however, the amount rose to £67,320, and in 1883, to £106,680. But the German States have always made much greater sacrifices in order to safeguard their forest wealth.

should exercise a far-seeing strictness over the observance of the laws relating to the chase, to fishing both in river and in sea, and generally to the preservation of all the natural wealth which man is liable to

In the Duchy of Baden between 1850 and 1856, 2400 acres were sown or planted; that is to say, about 400 acres a year. If France were to show the same activity she would need to sow or plant 8000 or 10,000 acres yearly, and even this figure would be scarcely high enough. In Wurtemberg between 1830 and 1852, nearly 3600 acres, not previously forest-land, were sown or planted, and 28,000 were improved by various methods—that is to say an average of 164 acres of new forest-land, and 1280 acres improved every year. If we multiply these figures by 20, this will give us what France ought to do. Baden spent in 1870, £4960 in forest-culture (*Waldculturen*): Bavaria, in the same year, £26,360. France has eight times the population, and far more than eight times the wealth of Bavaria; she ought, therefore, to spend for this purpose £200,000. Prussia, properly so called, devoted £121,720 to the cultivation and improvement (Vermehrung und Einrichtung) of its forests in the year 1870. Allowing the same proportion to the population, France ought to spend £160,000 annually; but, as a matter of fact, in strictly forest-culture, our Budget shows an expenditure of not more than £100,000 or at most £120,000.

The democratic State with its restlessness, its changing *personale*, its subjection to electoral influences, its terror of exciting rural discontent by the disturbance of rights of pasture or wood-cutting; having, moreover, by its very constitution but little inducement to take thought for the distant future, lags far behind the old firmly-established administrations in these great works of general preservation.

exhaust. Many kinds disappear, having been mercilessly tracked down and exploited; sometimes it will be certain species of fish, sometimes of birds, now it is whales which have almost gone out of existence, or elephants again, with their ivory or gutta-percha, or quinine. There can be no doubt that in reference to the preservation of these exceptional kinds of wealth the State has to play the part of guardian, for the State, as we have seen, is before everything else an organ of conservation.

The Modern State has this part to play: but is it fully prepared to play it? Let us consider what it is: elective in every degree and grade, and elected for short periods, it has ever before its eyes the terror of the elector and especially of the active and agitating elector.

What has been happening in France? A Minister of Agriculture[1] has been employing his time in destroying Colbert's excellent regulations as to forests and rivers. He scatters the School of Nancy to the winds:

[1] M. Vietto. This gentleman's ministry shows us what becomes of the national resources when they are treated purely from an electoral point of view.

he multiplies permits for pasturage and for customary rights: he tends towards giving the forests as a prey to marauders. He annuls the official reports or forbids their drawing up altogether. He turns keepers and inspectors into political agents, making them thus into miserable, degraded, and impotent dependents.

The same abuses are allowed to prevail from high to low throughout the country in the chase and in the fisheries.

By such doings as these the State betrays its trust. It becomes the associate and accomplice, it might almost be said the instigator of an eager and shameless pillage of collective wealth.

I have been occupied in this book with the consideration of three of the principal tasks which devolve upon the State, and the three which are most incontestably its own. I have placed these tasks before the Modern State. Dispassionately and without any desire to find it at fault, I have interrogated it, and scrutinised only the modes of action which are open to it, and the spirit by which it is inspired.

The result is, that I have found that the Modern State allows itself to be distracted by other cares of a subordinate and trifling order, and acquits itself tamely and indolently of its great function of security: that on the other hand it exhibits a confused, ill-regulated, and often upsetting activity in its legislative mission—which mission consists simply in recognising the various kinds of rights, in giving them its sanction, in regulating their exercise and their mutual relations, in defining, determining, and generalising the new adaptations which are rendered necessary by changes in the social medium, and which have already taken shape in the form of free customs.

Finally, with reference to the task of preserving the physical conditions of national development, I have concluded that the Modern State does not fulfil this task with that firmness and consistence which the future welfare of the nation demands. In a subsequent volume I shall pass in review the numerous accessory labours which the Modern State has already attempted, or which it claims to monopolise.

THE END.

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